



CITY OF WESTFIELD, IN
BoardofZoningAppeals_Meeting_Agenda_01_13_2015

Tuesday, January 13, 2015 at 07:00 PM

BOARD OR COMMISSION: Board of Zoning Appeals (BZA)

MEETING DATE: Tuesday, January 13, 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 - November 11, 2014

Documents: [November 11, 2014, Minutes](#)

Review BZA Rules & Procedures

ITEMS OF 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)).

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

1501-VU-01 [PUBLIC HEARING]

180 South Cherry Street

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).

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

REPORTS/COMMENTS:

APC LIAISON

ECD STAFF

ADJOURNMENT



WESTFIELD-WASHINGTON
BOARD OF ZONING APPEALS

January 13, 2015

1501-VU-01

Exhibit 1

Petition Number: 1501-VU-01

Subject Site Address: 180 South Cherry Street (the "Property")

Petitioner: David Koone (the "Petitioner")

Request: 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).

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

Current Land Use: Residential

Approximate Acreage: 0.30 acres +/-

Exhibits:

1. Staff Report
2. Aerial Location Map
3. Existing Conditions Exhibit
4. Petitioner's Application

Staff Reviewer: Jesse M. Pohlman, Senior Planner

Petition History

This petition will receive a public hearing at the January 13, 2015, Board of Zoning Appeals meeting.

Analysis

Location: The subject property is 0.30 acres +/- in size and located at 180 South Cherry Street, on the east side of Cherry Street; approximately three hundred and sixty feet (360) feet south of Main Street (State Highway 32) (see **Exhibit 2**). The Property is zoned LB-H: Local Business / Historical District ("LB-H") and is located within the Floodplain District¹. The Property currently contains a vacant 5,000-square foot +/- commercial structure (see **Exhibit 3**). The surrounding properties are primarily zoned LB-H, with the undeveloped parcel to the southeast zoned the SF3: Single-Family Medium Density District and located within the Floodplain District. The surrounding properties primarily include a mix of office and light industrial uses.

¹ The Petitioner is not proposing to construct any new structures, to structurally alter the existing building, nor to alter the land. As a result, the provisions of the Floodplain District are not triggered and would not currently apply.



Variance Request: The Petitioner has filed this variance request to allow the use of the property for a lawn care business for their recently purchased "[Lawn Doctor](#)" franchise, which they desire to locate in Westfield. The business would include the use of the property as an office/warehouse that will utilize the existing improvements and be conducted entirely indoors. The Department has determined the proposed use is a Construction Trade Office², as defined by the UDO.

A Construction Trade Office is permitted in the EI: Enclosed Industrial District and OI: Open Industrial District, and is a Special Exception in the GB: General Business District. As a result, this variance of use request has been filed in order to allow this business in the LB-H District. The UDO states the LB-H District is intended "to provide for the needs of local business in the central business district of the City and also to provide for the preservation, restoration, adaptive use and/or reconstruction of properties and historic buildings in the district³."

Zoning History: The Property has previously been granted two variances of use by the Board of Zoning Appeals as follows:

1. 0405-VU-004 (May 2004): Variance of Use approved to allow a "carpet cleaning business" (ChemDry franchise) which was characterized as: (i) a consumer service provider that typically performed carpet cleaning services at the consumers' residence; (ii) sale to the public of retail cleaning products (e.g., Spot Removal) from the business location; and (iii) drop-off and pick-up carpet cleaning of area rugs and carpets at the business location. This use ceased operating on the Property in the spring of 2006. Under the recently adopted UDO, this use would likely be qualified as a Light Industry⁴ use.
2. 0608-VU-004 (September 2006): Variance of Use approved to allow a "plumbing showroom" (Hallam Plumbing Co.) with the condition that "[a]ny new construction on site will mandate the

² The UDO defines "Office, Construction Trade" as "[e]lectrical contractors, general contractors or construction offices, home remodeling companies, septic system contractors, heating and cooling contractors, painting contractors, landscaping contractors, and plumbing contractor offices, and the like, where such use is typically characterized to include some or all of the following aspects: storage of product for sale or for installation, storage of materials related to the business, storage of equipment or other implements, office space, parking of company vehicles, service areas for equipment and vehicles, warehouse space, showroom space, and/or retail sales."

³ Article 4.15(A) LB: Local Business / Historical District; Purpose and Intent of the UDO.

⁴ The Department Report for Petition 0405-VU-004 noted carpet cleaning was not an identified use in the zoning ordinance in effect at the time, but that carpet cleaning was similar in use and impact to a exterminators, which under the UDO would qualify as "Industry, Light", defined as "[r]esearch and development activities, manufacturing, compounding, processing, packaging, storage, assembly, fabrication, processing, and/or treatment of finished or semi-finished products from previously prepared materials, which activities are conducted wholly within an enclosed building using processes that ordinarily do not create noise, smoke, fume, odors, glare or health or safety hazards outside of the building or Lot and shall not include any use that is otherwise listed specifically in this Ordinance. Example uses include, but are not limited to: leather products manufactured from finished leather; casket and casket supplies; crating and packaging service; exterminators; glass fabrication and installation; newspaper publishing;



entire site be brought up to code.” The use was characterized as a fully functioning plumbing showroom and repair facility that operated a sales area, a distribution area for service calls, storage (inside) and a general office operation. This use ceased operating on the Property in the spring of 2012 when the current property owner sold the plumbing company but retained ownership of the Property. Under the recently adopted UDO, this use would be qualified as a Construction Trade Office, as defined by the UDO.

Comprehensive Plan: The Westfield-Washington Township Comprehensive Plan identifies this Property within the “Downtown”⁵ land use classification. The Downtown area was further studied in 2008 after the formation of the Grand Junction Task Group (the “GJTG”). The study resulted in an amendment to the Comprehensive Plan known as the Grand Junction Master Plan and Addendum, adopted in 2009, and then subsequently the adoption of the Grand Junction Implementation Plan (the “Implementation Plan”), an amendment to the Comprehensive Plan adopted in 2013 (collectively, the “Grand Junction Plan”).

The Grand Junction Plan identifies a long term vision as well as land use and financial investment goals for the intermediate and short terms. The centerpiece of the Grand Junction Plan includes creating public gathering spaces with key public investments opportunities to include: Grand Junction Plaza (currently being designed), new civic facilities, extended trail system and street network, enhanced stormwater management, and signature gateway developments.

The studied land use component of the Grand Junction Plan identified several sub-districts. The Property falls within the area identified as the “Junction Sub-District”. The specific objectives for the Junction Sub-District, as prioritized in the Implementation Plan, include: (i) develop architectural and development standards; (ii) formalize a position with INDOT regarding the SR32 expansion through downtown; (iii) develop standards to address modifications to existing structures; (iv) develop Downtown Westfield Association review process; and (v) develop strategy for attracting/encouraging the following land uses: trail-oriented businesses (i.e. bike shop, coffee shop); dry cleaner; market; specialty shops; night-time gathering places; restaurants; offices⁶.

storage and transfer (household goods); manufacturing and/or assembly of storm doors, windows, awnings, siding, cabinets, can or containers, communication equipment, household appliances, marine equipment, office equipment and machinery, cloth products from finished cloth, furniture, glass and glass products, jewelry without retail, musical instruments, optical goods, paper boxes and paper products from finished paper, portable household appliances, electric hand tools, railroad equipment (including repair and service), recording instruments, tools, implements, machinery, mattress and upholstery, pharmaceutical, advertising and business signs, medicine and cosmetics; assembly operations of pre-manufactured parts, components; assembly, repair and manufacture of light component parts; taxidermist; machine, welding, tool and die shops; stamping and fabricating metal shops; tire recapping; malt products, brewery, distiller of liquor and spirits; bottling of alcoholic and non-alcoholic beverages; secondary food processing and packaging of products not produced on site.”

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

⁶ Grand Junction Implementation Plan, Chapter 6: Implementation Plan Objectives and Action Items (pg. 26).



The Department, in coordination with the GJTG, is currently working on the prioritized objectives of the Implementation Plan; however, the specific objectives noted above for the Junction Sub-District are still in progress. As a result, the Department encouraged the Petitioner to meet with the GJTG. The GJTG has provided a letter as a result of their meeting with the Petitioner on December 30, 2014, which will be presented at the public hearing.

Floodplain District: The Property is located with the Floodplain District. The Petitioner does not currently plan to construct any new improvements nor alter the land. As a result, the provisions of the Floodplain District are not triggered and would not currently apply.

If any new improvements are proposed in the future for this Property, regardless of the use, then the Property and related improvements will be further reviewed by the City at that time for compliance with the applicable development standards of the LB-H District, as well as the applicable review process and standards of the Floodplain District (including any appropriate review and permits necessary by the Indiana Department of Natural Resources).

Procedural

Public Notice: The Board of Zoning Appeals is required to hold a public hearing on its consideration of a variance of land use. 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 UDO⁷ 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 UDO⁸ 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

⁷ Article 10.14(I) Processes and Permits; Variances; Conditions of the UDO.

⁸ Article 10.14(K) Processes and Permits; Variances; Acknowledgement of Variance of the UDO.



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.

Recommendation

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

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.

Recommended Findings for Approval:

1. *The use 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 the use is consistent with previously permitted uses and is a use otherwise permitted in the community by the Unified Development Ordinance. The operation of the use will otherwise be required to comply with or exceed the applicable standards of the Unified Development Ordinance.



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

Finding: It is unlikely the use and value of adjacent properties will be affected in a substantially adverse manner. The proposed variance of use should not have a negative impact on surrounding properties because the use will be conducted entirely within an otherwise vacant building and utilize existing improvements which are consistent with and compatible with the current character of the surrounding area.

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

Finding: The existing conditions of the property and surrounding area generally do not lend itself to uses permitted in the LB-H District. The existing conditions do, however, lend itself to the proposed use, which is less intense than other uses the property may otherwise support in its current condition.

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 existing conditions of the property and surrounding area generally do not lend itself to uses permitted in the LB-H District. The property is currently vacant and located within the Floodplain District. As a result, the use of the property in its current condition for uses otherwise permitted in the LB-H District is likely restricted and constitutes an unnecessary hardship.

5. *Does not interfere substantially with the comprehensive plan:*

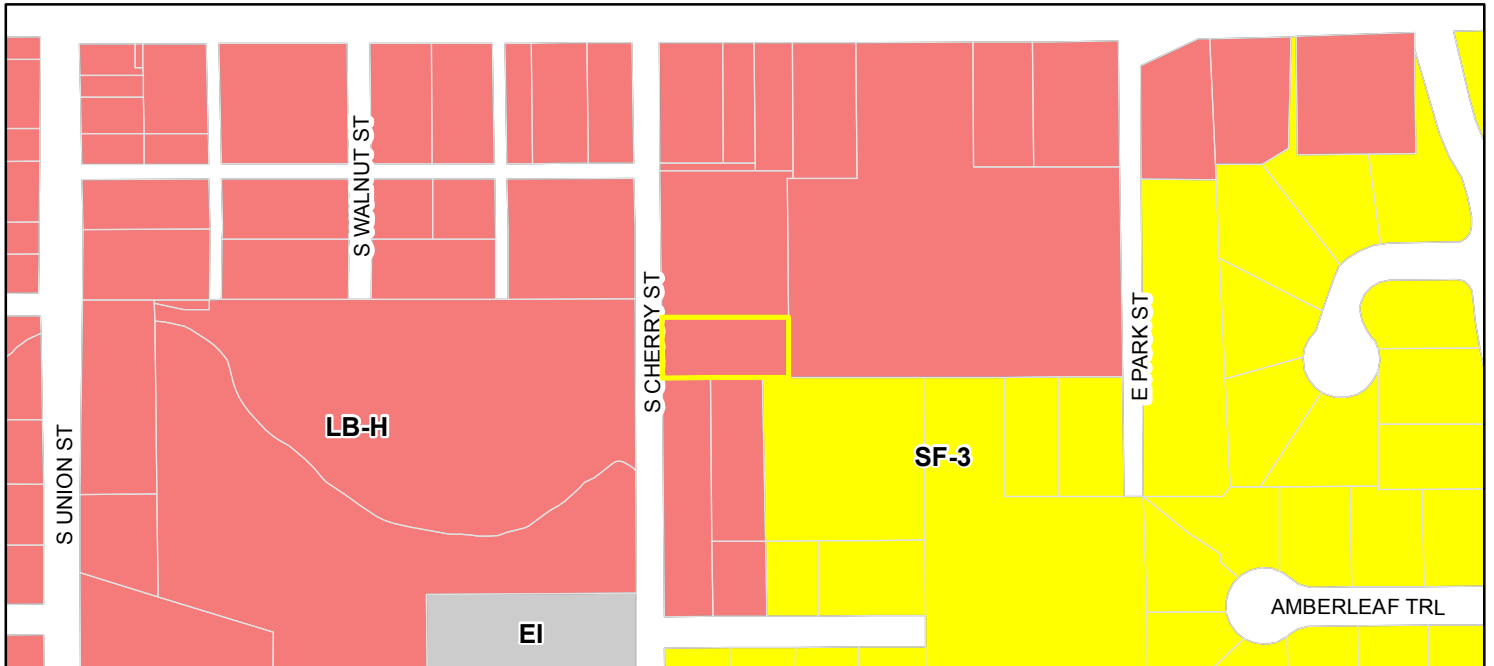
Finding: The Comprehensive Plan identifies this property within the Junction Sub-District of the Grand Junction District. Although the Comprehensive Plan generally recommends land uses within the Junction Sub-District that are trail-oriented, specialty retail, and night-time gathering destinations; the proposed use offers an opportunity for the viable use of the property in its current condition. The success of short-term or interim uses of existing structures in downtown will contribute to the long-term success and stability of the Grand Junction District, thus the proposed use does not substantially interfere with the Comprehensive Plan.

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



RECEIVED

WESTFIELD-WASHINGTON TOWNSHIP APPLICATION FORM

VARIANCE APPLICATION

NOV 26 2014



OFFICE
USE ONLY

DOCKET #: 1501-VU-01 FILING DATE: 11-26-14
FILING FEE: \$ 550- FEE PLUS \$ - PER ADDITIONAL VARIANCE (@ -) = \$ 550-

PRE-FILING CONFERENCE

PRE-FILING CONFERENCE WITH: Jesse Pohlman (STAFF NAME) DATE: November 24, 2014

PRIOR OR RELATED DOCKET NUMBERS

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

PRIMARY PLAT: _____ SECONDARY PLAT: _____ VARIANCE(S): 0608-VU-004

APPLICANT INFORMATION

APPLICANT'S NAME: David Koone TELEPHONE: (317) 379-8885

ADDRESS: 13234 Antonia Blvd, Carmel, IN 46074 EMAIL: dkoone@gmail.com

PROPERTY OWNER'S NAME: Paul Hallam TELEPHONE: (317) 846-8936

ADDRESS: 1807 East 116th Street, Carmel, IN 46032 EMAIL: _____

REPRESENTATIVE'S NAME: _____ TELEPHONE: _____

COMPANY: _____ EMAIL: _____

ADDRESS: _____

PROPERTY AND PROJECT INFORMATION

ADDRESS OR PROPERTY LOCATION: 180 South Cherry Street, Westfield, IN 46074

COUNTY PARCEL ID #(S): 09-10-06-01-02-021.001

EXISTING ZONING DISTRICT(S): 420 EXISTING LAND USE(S): LBH

VARIANCE REQUEST

☒ VARIANCE OF LAND USE CODE CITATION: Article 13.2

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

FINDINGS OF FACT: (PLEASE SEE ATTACHED)

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

Applicant recently purchased a franchise agreement to operate the national lawn care franchise, Lawn Doctor and would like to make Westfield the home for this new business. The proposed use would be for an office/warehouse for the lawn care business serving the local Westfield community.

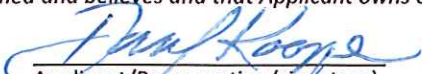
Construction Trade office

The use would be similar to the previous businesses at this location (plumbing and carpet cleaning services) and would therefore have the same (or less) impact to the surrounding area.

There will be no increased traffic to the site as this is not a showroom and will not be used as retail space for this business.

**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)

David Koone
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.

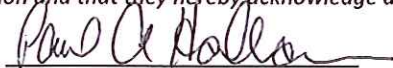
Witness my hand and Notarial Seal this 26 day of November, 2014.

State of Indiana, County of Hamilton, SS:


Notary Public Signature
Sherree L. Campbell
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)*

Paul Hallam
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 26 day of November, 2014.

State of Indiana, County of Hamilton, SS:


Notary Public Signature
Sherree L. Campbell
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.

GRANTOR: MMCD REALTY, an Indiana Partnership

Signature: _____

Printed: _____

Title: _____

STATE OF _____

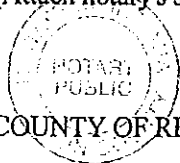
COUNTY OF _____

ACKNOWLEDGMENT

Before me, a Notary Public in and for said County and State, personally appeared F. Tim Martin, the Partner of MMCD REALTY, an Indiana Partnership, who acknowledged the execution of the foregoing Deed for and on behalf of said Grantor, and who, having been duly sworn, stated that the representations therein contained are true.

Witness my hand and Notarial Seal this 20th day of September, 2006.

(Attach notary's seal)



Ladonna G. Thompson

My Commission

COUNTY OF RESIDENCE: _____

Signature _____

Printed _____

MY COMMISSION EXPIRES: _____

Send Tax Bills to: _____

This instrument was prepared by ROBERT R. THOMAS, Attorney at Law, 540 Westfield Road, Noblesville, IN. 46060.

File No. 290606199

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 _____.

VARIANCE APPLICATIONS

**GENERAL INSTRUCTIONS**

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

FINDINGS OF FACT (VARIANCE OF USE)

APPLICANT: David KooneDOCKET #: 1501 - vu - 01

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 use would have the same or less impact than the previous businesses at this location.
- 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: One of the adjacent properties is zoned SF-3. The use and value of all areas adjacent to the property would not be adversely affected since the use would be similar to the previous businesses at this location (plumbing and carpet cleaning services) and would therefore have the same (or less) impact to the surrounding area as the three previous business's use of the property. All business activity (warehouse storage and office use) would take place in the interior of the building. The applicant intends to clean up the property and improve the image of the property (e.g. landscaping, lighting, painting, roof repair) in a manner that will add value to the adjacent properties.
- C. The need for the variance arises from some condition particular to the property involved because: The application intends to purchase the property from the existing owner for intended owner-occupied use for the operation of a new business serving Westfield. The building condition and structure is conducive and very well-suited for a lawn care business - with it's large warehouse space with electric garage doors and appropriately sized office space.
The variance is needed for this particular property because the Purchase Agreement is contingent upon government approval of applicant's intended use.
- D. The strict application of the terms of the Ordinance will constitute an unnecessary hardship if applied to the property for which the variance is sought because: If the variance sought is not approved in the same manner as the previous businesses, the purchase of the property will be impeded - which would negatively impact the interests of both the buyer and the seller. The amount of resources invested in legal and diligence would be forfeited but more importantly if the purchase is hindered both parties would be forgoing a mutually beneficial transaction.
- E. The variance of use does not interfere substantially with the Comprehensive Plan because: The property is located on the fringe of the proposed retail develop plans and is located in what is currently a more industrial area. It is the applicant's intention to provide professional services to the meet the needs of the nearby community (both residential and businesses) and add value to surrounding community.

WARRANTY DEED

THIS INDENTURE WITNESSETH, That MMCD REALTY, an Indiana Partnership, (hereinafter referred to as Grantor) *CONVEYS AND WARRANTS* to PAUL A. HALLAM, (Grantee), for the sum of Ten and 00/100 Dollars (\$10.00) and other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the following described real estate in Marion County, State of Indiana:

PART OF THE NORTHWEST QUARTER OF SECTION 6, TOWNSHIP 18 NORTH,
RANGE 4 EAST, HAMILTON COUNTY, INDIANA, AND
BEING MORE SPECIFICALLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF LOT 38 IN THE ORIGINAL
PLAT OF THE TOWN OF WESTFIELD, INDIANA, THE PLAT OF WHICH IS
RECORDED IN DEED RECORD D, PAGE 121, IN THE OFFICE OF THE
RECORDER OF HAMILTON COUNTY, INDIANA; THENCE SOUTH, ON AND ALONG
THE WEST LINE OF SAID LOT 38 AND SAID WEST LINE EXTENDED,
185.25 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE SOUTH, ON
AND ALONG SAID WEST LINE EXTENDED, 78.75 FEET; THENCE EAST,
PARALLEL WITH THE NORTH LINE OF SAID LOT 38 165 FEET; THENCE
NORTH PARALLEL WITH SAID WEST LINE EXTENDED, 78.75 FEET; THENCE
WEST, PARALLEL WITH SAID NORTH LINE, 165 FEET TO THE POINT OF
BEGINNING.

Subject to Real Estate Taxes not delinquent and to any and all easements, agreements and restrictions of record.

The address of such real estate is commonly known as 180 S. Cherry Street, Westfield, IN 46074. Tax bills should be sent to Grantee at such address unless otherwise indicated below.

The undersigned persons executing this deed on behalf of Grantor represent and certify that the undersigned is the general partner of the Grantor and has been fully empowered by proper resolution, or by the Partnership Agreement of the Grantor, to execute and deliver this deed; that the Grantor is a limited partnership in good standing in the State of Indiana; that Grantor has full capacity to convey the real estate described; and that all necessary action for the making of this conveyance has been duly taken and done.

IN WITNESS WHEREOF, Grantor has executed this deed this 20th day of September, 2006.

0910060102021001

Hallam, Paul A

180 S CHERRY ST

420

ADMINISTRATIVE INFORMATION

OWNERSHIP - Deeded Owner

Tax ID 29-10-06-102-021.001-015

Printed 08/01/2014 Card No. 1 of 1

PARCEL NUMBER

Hallam, Paul A

TRANSFER OF OWNERSHIP

0910060102021001

1807 116th St E

Date

Parent Parcel Number

Carmel, IN 46032

09/27/2006

Property Address

MMCD Realty

06/17/2004

180 S CHERRY ST

Elliot, J Richard

\$235000

Neighborhood

\$185000

700407 WESTFIELD DOWNTOWN-SR 32 AREA

Property Class

420

03/01/2010

420 Com Small retail LT 10000 SF

03/01/2011

03/01/2012

TAXING DISTRICT INFORMATION

03/01/2013

03/01/2014

Jurisdiction 29

Trend

Trend

Area 008

Trend

Trend

Corporation Y

Trend

Trend

District 09

Trend

Trend

Site Description

Trend

Trend

Topography:

Trend

Trend

Level

Trend

Trend

Public Utilities:

Trend

Trend

All

Trend

Trend

Street or Road:

Trend

Trend

Paved

Trend

Trend

Neighborhood:

Trend

Trend

Static

Trend

Trend

Zoning:

Trend

Trend

Legal Acres:

Trend

Trend

0.3000

Trend

Trend

Admin Legal

Trend

Trend

0.3000

Trend

Trend

1 PRIMARY

Trend

Trend

Legal Acres:

Trend

Trend

0.3000

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Admin Legal

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1 PRIMARY

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Legal Acres:

Trend

Trend

0.3000

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Admin Legal

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Legal Acres:

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0.3000

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Admin Legal

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1 PRIMARY

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Legal Acres:

Trend

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0.3000

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Admin Legal

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1 PRIMARY

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Legal Acres:

Trend

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0.3000

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Admin Legal

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0.3000

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1 PRIMARY

Trend

Trend

Legal Acres:

Trend

Trend

0.3000

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Admin Legal

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1 PRIMARY

Trend

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Legal Acres:

Trend

Trend

0.3000

Trend

Trend

Admin Legal

Trend

Trend

0.3000

Trend

Trend

1 PRIMARY

Trend

Trend

Legal Acres:

Trend

Trend

0.3000

Trend

Trend

Admin Legal

Trend

Trend

COMMERCIAL

VALUATION RECORD

Assessment Year	03/01/2008	03/01/2009	03/01/2010	03/01/2011	03/01/2012	03/01/2013	03/01/2014
Reason for Change							
VALUATION							
Appraised Value	L 19300	19300	19300	19300	19300	19300	19400
	B 212200	225900	225900	225900	223700	226500	226500
	T 231500	245200	245200	245200	243000	245800	245900
VALUATION							
True Tax Value	L 19300	19300	19300	19300	19300	19300	19400
	B 212200	225900	225900	225900	223700	226500	226500
	T 231500	245200	245200	245200	243000	245800	245900

LAND DATA AND CALCULATIONS

Street or Road:	Rating	Measured	Table	Prod. Factor					
Paved	Soil ID	Acres	150	-or-					
	-or-	-or-		Depth Factor					
Neighborhood:	Actual	Effective	Effective	-or-					
Static	Frontage	Frontage	Depth	Square Feet	Base	Adjusted	Extended	Influence	
	Land Type				Rate	Rate	Value	Factor	Value
Zoning:									
1 PRIMARY		0.3000		1.85	35000.00	64750.00		19430	19430

RR11: SRB
TIF: 90906

Supplemental Cards

TRUE TAX VALUE

19430

FARMLAND COMPUTATIONS
Parcel Acres
81 Legal Drain NV [-]
82 Public Roads NV [-]
83 UT Towers NV [-]
9 Homesite(s) [-]
91/92 Excess Acres [-]
TOTAL ACRES FARMLAND
TRUE TAX VALUE

Measured Acreage
Average True Tax Value/Acre
TRUE TAX VALUE FARMLAND
Classified Land Total
Homesite(s) Value (+)
Excess Acreage Value (+)

Supplemental Cards
TOTAL LAND VALUE

19400

PHYSICAL CHARACTERISTICS

ROOFING

WALLS
B 1 2 U
Yes

Frame
Brick
Metal
Guard

FRAMING

Wd Jst 0 4988 0 0

FINISH

UF SF FO PD
1 2663 1800 0 525
Total 2663 1800 0 525

HEATING AND AIR CONDITIONING

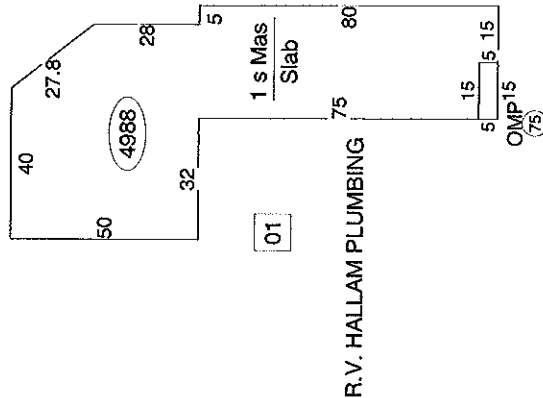
B 1 2 U
Heat 0 4988 0 0
A/C 0 2325 0 0

PLUMBING Residential Commercial

Full Baths
Half Baths
Extra Fixtures
TOTAL

TF # TF
0 0 4 4
0 4

IMPROVEMENT DATA



R.V. HALLAM PLUMBING

OMP'S
(75)

0910060102021001
Property Class: 420
180 S CHERRY ST

P Key	#Units	GCII18	GCII12	GCII25
AVSize				
Floor	1			
Perim	373			
PAR	7			
Height	12			
Use	SMSHOP			
Use SF	1800			
Use %	36.09%			

Rate	60.40	59.08	53.96
Pr Adj	-10.32	-9.79	-10.31
WB Adj	-1.46	0.00	-1.26
Ot Adj	0.00	0.00	0.00
BASE	48.62	79.29	42.39
BPA %	100%	100%	100%

Subtot 48.62 79.29 42.39

U Fin	0.00	0.00	0.00
Ot Adj	0.00	0.00	0.00
IntFin	0.00	0.00	0.00
Div W	0.00	0.00	0.00
Lightg	0.00	0.00	0.00
AirCon	3.86	0.00	0.00
Heat	0.00	0.00	0.00
Sprink	0.00	0.00	0.00

SF Pr 52.48 79.29 42.39
x SF 94460 41630 112890

Subtot	248980		
Plumb	5600		
SPFeat	0		
ExFeat	3800		
TOTAL	258380		
Qual/Gr	C		

RCN 258380

Use Dep 0/0 0/0 0/0

(LCM: 100.00)

SUMMARY OF IMPROVEMENTS

SPECIAL FEATURES

Description	Value	ID	Use	Stry Hgt	Const Type	Grade	Year Eff	Const Year	Cond	Rate	Feet- ures	Adj Rate	Phys Obsol	Market %	Value	Depr	Adj Comp	Value
C SMSHOP	0.00	0.00	85	C	1978	1979	A	0.00	N	0.00	4988	258380	15	0	100	100	219600	
01 PAVING	5.00	85	C	1987	1988	A	2.50	N	2.50	3924	9810	30	0	100	100	6900		

Data Collector/Date
JOG 01/03/1994

Appraiser/Date
TMT 10/05/2010

Neighborhood
Neigh 700407 AV

Supplemental Cards
TOTAL IMPROVEMENT VALUE

226500

Address: 180 South Cherry Street, Westfield 46074

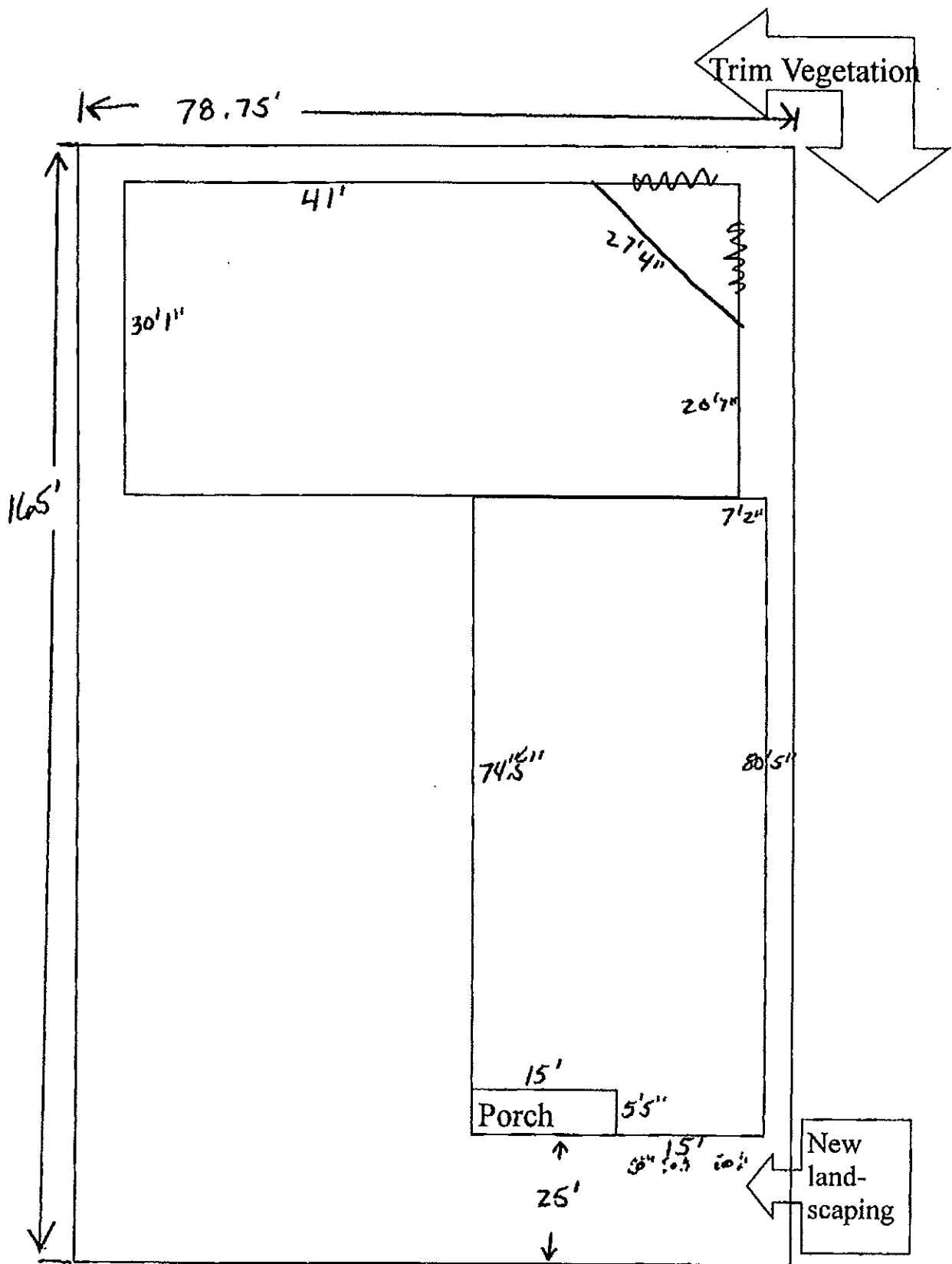
Parcel No: 09-10-06-01-02-021.001
State Parcel No: 2910-06-102-021.001-015

Property Class: 420 (Commercial Small Retail)
Property Use: LBH

Tax District: Westfield
TIF Code: 90906
TIF District: Grand Junction - Westfield
Precinct: Southeast Westfield 1

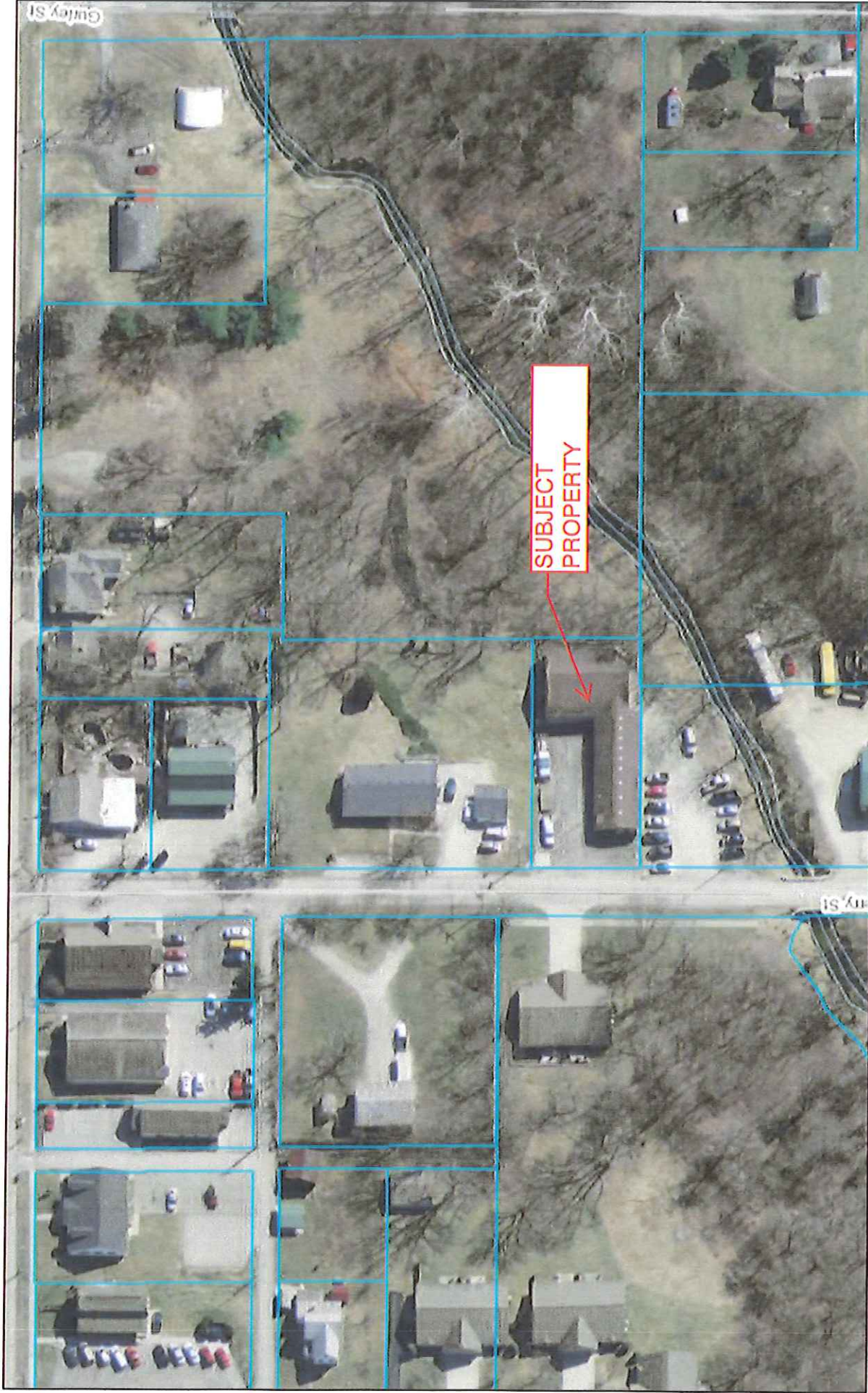
Deeded Acres: 0.3
Perimeter: 487'
Area: 12,993 SF

Deeded Owner: Paul A. Hallam
Buyer/Applicant: David Koone



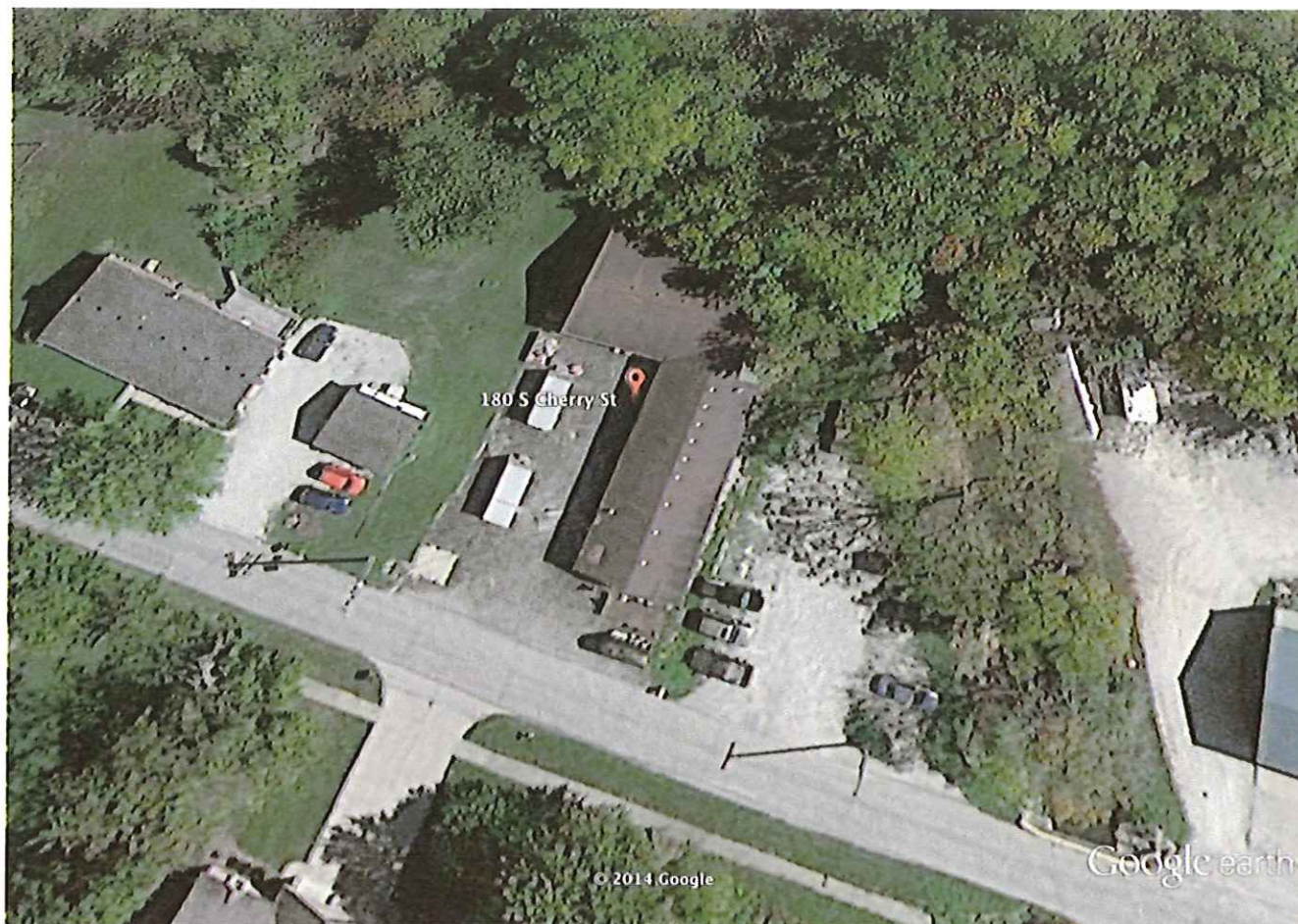
- ① NEW LANDSCAPING 3 SHRUBS & FLOWERS
- ② BUILDING TO GET NEW PAINT + OVERHEAD DOOR IN EXISTING OPENING.

180 S Cherry St



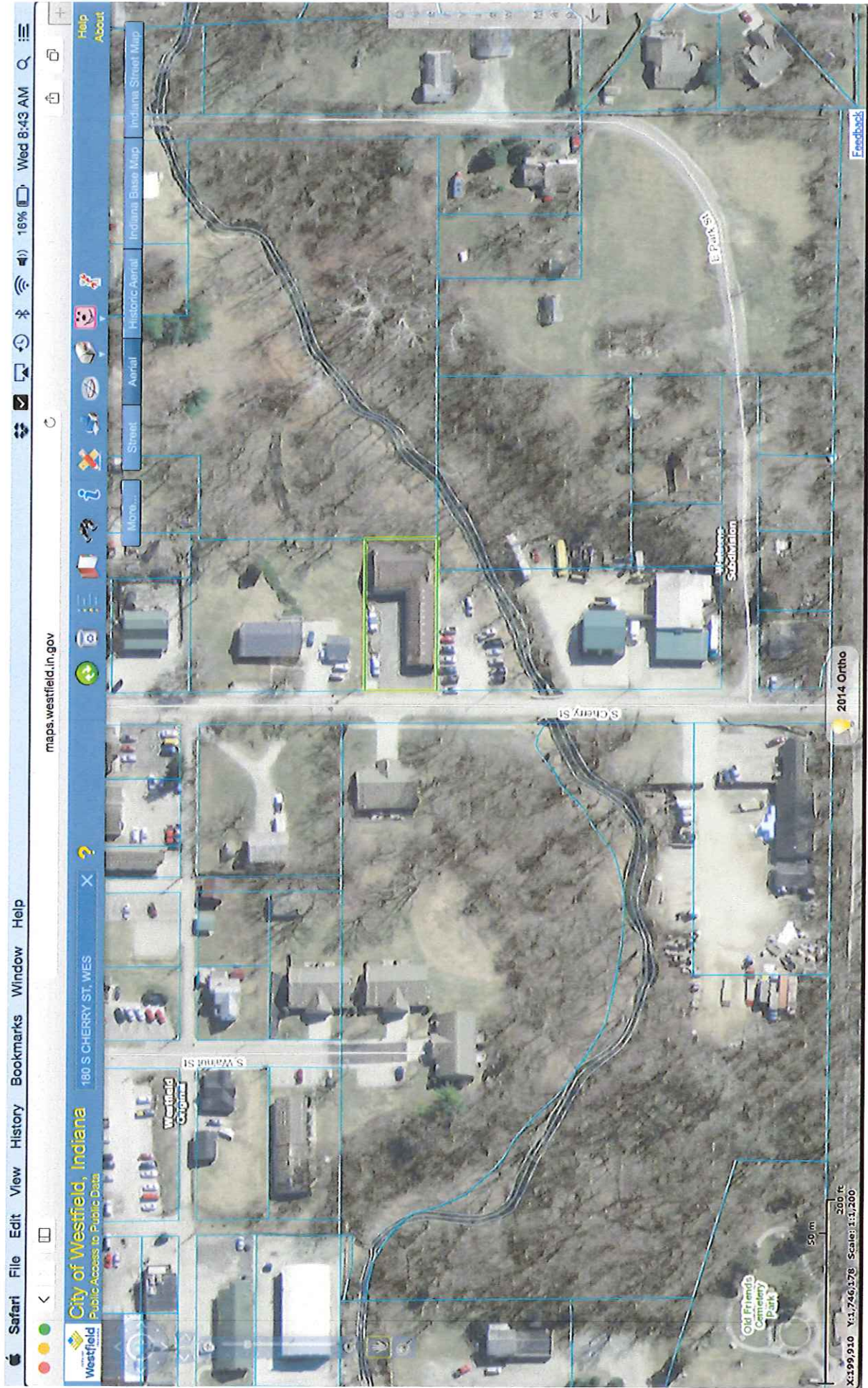
October 15, 2014

1:1,200
0 50 100 150 200 Feet



Google earth







WESTFIELD-WASHINGTON
BOARD OF ZONING APPEALS

January 13, 2015

1412-VS-15

Exhibit 1

Petition Number: 1412-VS-15

Subject Site Address: West of Eagletown Road and North of 166th Street (the "Property")

Petitioner: Yan Guenette (the "Petitioner")

Request: The petitioner is requesting Variances of Development Standard from the Unified Development Ordinance 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)*).

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

Current Land Use: Vacant

Approximate Acreage: 5.3 acres +/-

Exhibits:

1. Staff Report
2. Location Map
3. Application
4. Proposed Site Plan
5. Ingress/Egress Easement

Staff Reviewer: Kevin M. Todd, AICP

Petition History

This petition is scheduled to receive a public hearing at the January 13, 2015 Board of Zoning Appeals meeting.

Analysis

Location: The Property is approximately 5.3 acres in size and is located approximately 650 feet west of Eagletown Road and approximately 640 feet north of 166th Street. The Property is currently two (2) separate, adjacent parcels, neither of which contains road frontage. According to the application, the Property is accessed by an existing twenty (20) foot non-exclusive ingress/egress easement that extends to Eagletown Road. The Property is vacant and is zoned AG-SF1. Adjacent property to the property to the



north, east, and south is also zoned AG-SF1 and is residential in use. Adjacent property to the west is vacant and is zoned Westgate PUD.

Subdivision Process Request: The subject property was originally part of a larger thirty-seven (37) acre piece of property until 1996, when the two (2) subject parcels were created. Zoning and subdivision laws were established in Westfield-Washington Township in 1977, which is prior to subdivision of the property in question. At the time the parcels were created, the zoning and subdivision laws required certain minimum road frontage and minimum lot size for newly created lots. Because the Property does not contain adequate road frontage, the property did not meet the zoning requirement and was illegally subdivided (and illegally created). The Property has been in its current state for nearly twenty (20) years. There have been improvements made (i.e. homes built) on adjacent properties over the years, and the Petitioner has expressed a desire to build a home on the Property. Because the Property was illegally subdivided, a building permit cannot legally be issued on the Property as it currently exists. One way of addressing the illegal subdivision of the Property is to approve the request to (retroactively) not have the Subdivision process apply to this Property. If the process doesn't apply, then the subdivision rules don't apply, rendering the creation of the properties legal (as long as the road frontage reduction request is also approved).

Road Frontage Variance Request: The Petitioner has filed a request to reduce the minimum road frontage requirement from two hundred-fifty (250) feet to zero (0) feet. The Property does not have any road frontage and is served by an access easement. The lack of road frontage leaves few options: leave the property as is; join the property with adjacent property that has compliant road frontage; or obtain a variance from the road frontage standard. The petitioner states in the application that the intention is to combine the two parcels into a single parcel and build a single-family home on the newly-created lot. If the requested road frontage variance and subdivision process relief requests are approved, then all other applicable zoning requirements could be met.

Access: The petitioner has provided a copy of the adjacent ingress/egress easement that serves this area (see attached Exhibit 5).

Comprehensive Plan: The Westfield-Washington Township Comprehensive Plan (the "Comprehensive Plan") identifies this Property within the "New Suburban"¹ land use classification. "Detached Dwellings"² are contemplated in the Comprehensive Plan as appropriate uses within this area of the township.

¹ Westfield-Washington Township Comprehensive Plan, Land Use Concept Map (pg. 23).

² Westfield-Washington Township Comprehensive Plan, New Suburban Development Policies (pg.40).



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.

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.

Recommendation

If the Board of Zoning Appeals is inclined to APPROVE the Variance of Standard requests, then the Department recommends approval of the findings set forth below, with the following condition:

Recommended Condition of Approval:

1. The two (2) existing parcels be legally combined into a single parcel prior to the issuance of an improvement location permit.

Recommended Findings of Fact: 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 Property is currently served by an existing shared driveway, and shared driveways reduce the number of road cuts onto public streets, thus reducing potential conflicts on those streets. Additionally, detached single-family homes are a contemplated use in this area of the township



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. Constructing a home would likely add value to Property, and therefore have a neutral or positive impact on nearby property values.

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 likely result in the property remaining vacant, unless joined with adjacent property with adequate road frontage. The proposed use is permitted in the AG-SF1 District, and the parcel would otherwise comply with all other standards of that district.

If the Board of Zoning Appeals is inclined to DENY the Variance of Standard requests, then the Department recommends approval of the findings set forth below:

Recommended Findings of Fact: 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 Property is currently served by an existing shared driveway, and shared driveways reduce the number of road cuts onto public streets, thus reducing potential conflicts on those streets. Additionally, detached single-family homes are a contemplated use in this area of the township

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

Finding: The use and value of adjacent property could be affected in a substantially adverse manner. Adding an additional home to use the existing shared driveway could have a negative impact on access to and use of the access easement. This additional burden on the shared drive could negatively impact the use and value of the area.



WESTFIELD-WASHINGTON
BOARD OF ZONING APPEALS

January 13, 2015

1412-VS-15

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.*

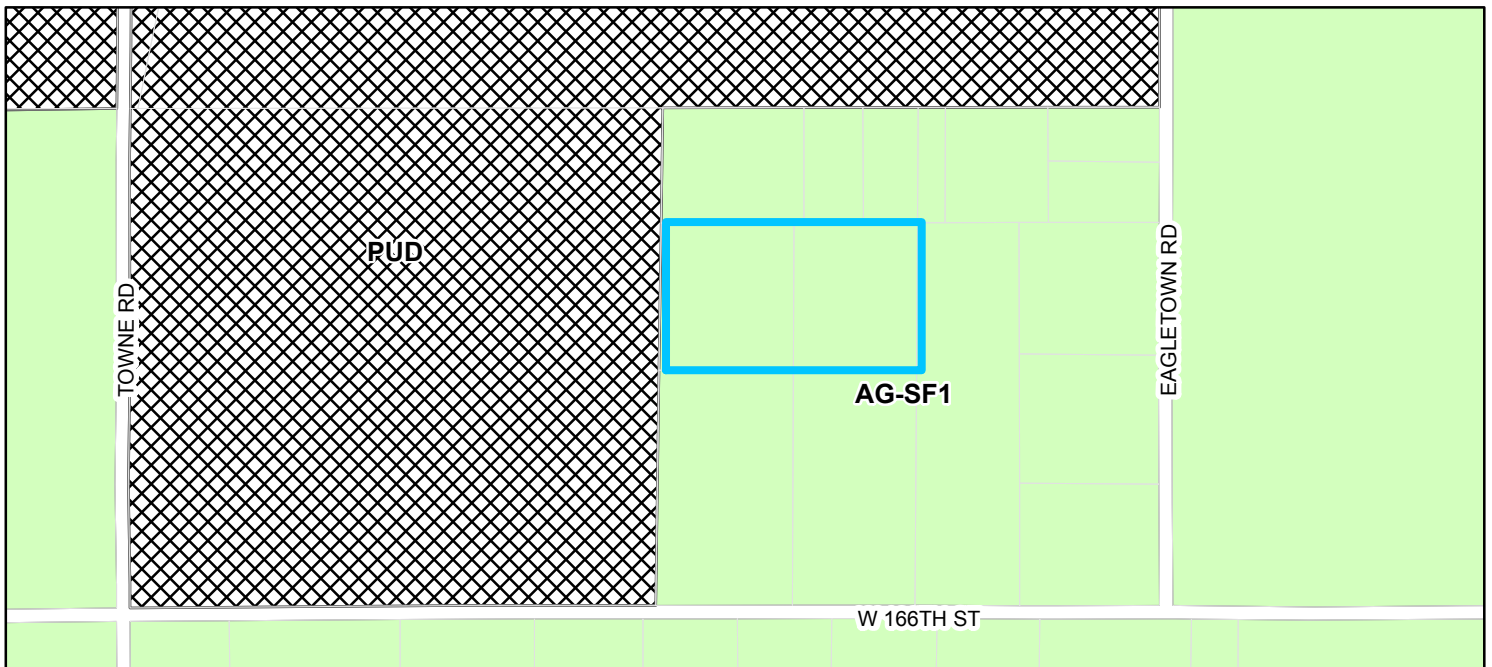
Finding: Each of the two (2) existing subject parcels are adjacent to properties with appropriate road frontage. If there is a willing purchaser(s), the properties could be lawfully joined to other nearby compliant properties (without the need for a variance) and used in a manner that is consistent with the terms of the Comprehensive Plan and the AG-SF1 District.

Location Map

 Site



Zoning Map



Zoning

 PUD (Planned Unit Development)

 AG-SF1 (Agriculture - Single Family - 1)

OCT 31 2014

VARIANCE APPLICATION

OFFICE
USE ONLY

DOCKET #: 1412-VS-15

FILING DATE: 10-31-14

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

PRE-FILING CONFERENCE

PRE-FILING CONFERENCE WITH: (STAFF NAME) DATE:

PRIOR OR RELATED DOCKET NUMBERS

CHANGE OF ZONING: AMENDMENTS: DEVELOPMENT PLAN:

PRIMARY PLAT: SECONDARY PLAT: VARIANCE(S):

APPLICANT INFORMATION

APPLICANT'S NAME: Yan Guenette TELEPHONE: 317-938-2440

ADDRESS: 17056 Lakeville Crossing, Westfield, IN 46074 EMAIL: indybuilt@hotmail.com

PROPERTY OWNER'S NAME: JENNIFER L HALL + JAMES J HALL TELEPHONE:

ADDRESS: 12378 TORBERG PL FISHERS IN 46038 EMAIL:

REPRESENTATIVE'S NAME: JAMES D. HALL TELEPHONE: 317-696-3594

COMPANY: JD HALL LAND SURVEYING EMAIL: alandsurveyor@yahoo.com

ADDRESS: 803 S. OHIO St., SHERIDAN, IN, 46069

PROPERTY AND PROJECT INFORMATION

ADDRESS OR PROPERTY LOCATION: Tract is 650' West of EagleTown Road & 640' North of 166th Street, Washington Twp.

COUNTY PARCEL ID #(s): 08-09-04-00-00-014.000 & 08-09-04-00-0-014.014

EXISTING ZONING DISTRICT(S): AG-SF1 (RURAL) EXISTING LAND USE(S): VACANT

VARIANCE REQUEST

☐ VARIANCE OF LAND USE CODE CITATION:☒ VARIANCE OF DEVELOPMENT STANDARD(S) CODE CITATION: UDO 4.2 (D)

FINDINGS OF FACT: (PLEASE SEE ATTACHED)

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

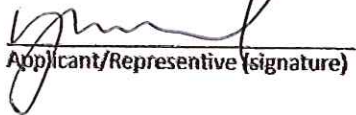
This request is to seek relief from the strict application of UDO 4.2(d) Minimum Lot Frontage of 250 feet

The properties in question are being combined and do not have direct road frontage. A Non-Exclusive 20' ingress & egress easement is providing access to EagleTown Road. The Ingress/Egress easement crosses land owned by others, making strict adherence to the letter of the ordinance impossible.

At present, the property is a legal non-conforming use, but the applicant wishes to construct his own single family residence on this land. This property encompasses 5.30 acres once combined and the only issue requiring action will be this frontage requirement.

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)

YAN GVENETTE
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 31st day of October, 2014.

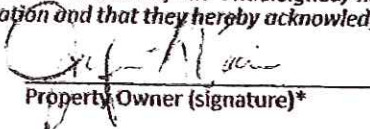
State of IN, County of Hamilton, ss:




Notary Public Signature
John James Cox
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)*

Jennifer L. Kalm
Property Owner (printed)

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

Witness my hand and Notarial Seal this 27th day of October, 2014.

State of IN, County of Hamilton, ss:




Notary Public Signature
Stephanie D. Bledsoe
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.

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)

YAN GUENETTE
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 31st day of October, 2014.

State of IN, County of Hamilton, ss:



[Signature]
Notary Public Signature

John James Cox
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)*

JAMES J. KAHN
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 24th day of October, 2014.

State of IN, County of Hamilton, ss:



[Signature]
Notary Public Signature

Stephanie D. Bledsoe
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: _____

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: _____

In this particular case, additional land to create the required Frontage simply does not exist and is not possible. Whoever, this site is served by an existing drive which is covered by a Non-Exclusive 20' Ingress & Egress Easement, which currently being utilized by two additional properties. Continuation of the status quo will have no ill effect on the community at large.

- 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: _____

Similar properties already exist along the existing drive which utilizes the Ingress/Egress Easement, which do not have direct frontage on Eagletown Road. Approval of this request will likely increase the subject property value while the construction on a New residential structure is likely to increase the value of surrounding properties.

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

The subject property is "land locked" with the only access being through the existing 20' ingress & egress easement. This easement is in use and both benefits and burdens the subject property.

There is no additional land from which to create the required 250' frontage.

VARIANCE APPLICATIONS

GENERAL INSTRUCTIONS

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

EXHIBIT A

NEW COMBINED LEGAL DESCRIPTION

A PART OF THE Southeast Quarter of the Southwest Quarter of Section 4, Township 18 North, Range 3 East located in Washington Township, Hamilton County, Indiana, being bounded as follows:

Commencing at the Northeast corner of the Southeast Quarter of the Southwest Quarter of Section 4, Township 18 North, Range 3 East, said point being collinear and equidistant from the Northeast corner and the Southeast corner of said Southwest Quarter; thence South 00°00'00" (assumed bearing) 300.00 feet on and along the East line of said Southwest Quarter to the Southeast corner of a tract of land recorded as Deed Record 324, page 769, records of Hamilton County, Indiana, thence South 89°41'48" West 653.40 feet parallel with the North line of the Southeast Quarter of said Southwest Quarter and along the South line of said tract of land to its Southwest corner, said point also being the Southeast corner of a tract of land recorded as Deed Record 332, page 468, records of Hamilton County, Indiana, said point also being the point of beginning of this description, said point being a 5/8 inch iron rod with cap, thence South 00°00'00" 371.43 feet parallel with the East line of said Southwest Quarter to a 5/8 inch rod with cap; thence South 89°41'48" West 351.75 feet parallel with the North line of the Southeast Quarter of said Southwest Quarter to a 5/8 inch rod with cap; Thence South 89°41'48" West, 703.67 feet to a 5/8" inch rod with cap on the West line of said Southeast Quarter of the Southwest Quarter; thence along said West line, North 00°01'41" East, 371.43 feet to a 5/8 inch rod with cap; Thence North 89°41'48" East, 703.49 feet to the point of beginning, containing 5.30 acres more or less.

14.00
(3)

TRUSTEE'S WARRANTY DEED

Instrument
9609643701

THIS INDENTURE WITNESSETH, That CATHERINE L. STAFFORD, successor Trustee of

NOLAN L. STAFFORD and CATHERINE L. STAFFORD, Trustees or their successors in trust under the NOLAN L. STAFFORD LIVING TRUST, dated January 30, 1992, and any amendments thereto; and

CATHERINE L. STAFFORD and NOLAN L. STAFFORD, Trustees or their successors in trust under the CATHERINE L. STAFFORD LIVING TRUST, dated January 30, 1992, and any amendments thereto

("Grantors") of HAMILTON County, in the State of Indiana, for the sum of One Dollar (\$1.00) and other valuable consideration, the receipt of which is hereby acknowledged, WARRANTS and CONVEYS both trusts' entire interest in the following described real estate to JENNIFER L. KAIM, adult, of HAMILTON County.

The real estate in HAMILTON County, in the State of Indiana, which is the subject of this deed is described as follows:

SEE ATTACHED LEGAL DESCRIPTION

Subject to all taxes, easements and rights of way of Record.

9609643701
Filed for Record in
HAMILTON COUNTY, INDIANA
MARY L. CLARK
On 10-15-1996 At 10:43 am.
WD 14.00

IN WITNESS WHEREOF, the Grantors have executed this deed, this 3rd day of September, 1996.

Signature:

Catherine L. Stafford Trust
Nolan L. Stafford Trust
Catherine L. Stafford Trust

Printed:

CATHERINE L. STAFFORD, successor Trustee for the NOLAN L. STAFFORD LIVING TRUST dated January 12, 1992 & the CATHERINE L. STAFFORD LIVING TRUST dated January 12, 1992

Send Tax Statements to Grantee's Post Office Address of: 12378 TORBERG PLACE
FISHERS, IN 46038

STATE OF INDIANA)

)SS:

COUNTY OF Marion)

Before me, a Notary Public in and for said County and State, personally appeared CATHERINE L. STAFFORD, successor Trustee for both above named trusts, who acknowledged the execution of the foregoing Trustee's Warranty Deed, and who, having been duly sworn, stated that any representations therein contained are true. Witness my hand and Notarial Seal this 3rd day of September, 1996.

JULY ENTERED FOR TAXATION
Subject to final acceptance for transfer
15 day of OCT 19 96

Signature:

C. Diane Mitchell

County of Residence: Hamilton

Printed:

C. Diane Mitchell

My Commission Expires: 10-1-97

Auditor
Hamilton County

Parcel#

This instrument was prepared by Brian S. Gordon, Attorney at Law
GORDON & GORDON, P.C., ATTORNEYS AT LAW 9850 N. 950 E. Brownsburg, Indiana 46112

A part of the Southeast Quarter of the Southwest Quarter of Section 4, Township 18 North, Range 3 East located in Washington Township, Hamilton County, Indiana, being bounded as follows: Commencing at the Northeast corner of the Southeast Quarter of the Southwest Quarter of Section 4, Township 18 North, Range 3 East, said point being colinear with and equidistant from the northeast corner and the southeast corner of said Southwest Quarter; thence South 00 degrees 00 minutes 00 seconds (assumed bearing) 300.00 feet on and along the east line of said Southwest Quarter to the Southeast corner of a tract of land recorded as Deed Record 324 page 769 records of Hamilton County, Indiana; thence South 89 degrees 41 minutes 48 seconds West 653.40 feet parallel with the North line of the Southeast Quarter of said Southwest Quarter and along the south line of said tract of land to its Southwest corner, said point also being the Southeast corner of a tract of land recorded as Deed Record 332, page 468 records of Hamilton County, Indiana, said point also being the Point of Beginning of this description, said point being a 5/8 inch iron rod with cap; thence South 00 degrees 00 minutes 00 seconds 371.43 feet parallel with the East line of said Southwest Quarter to a 5/8 inch rod with cap; thence South 89 degrees 41 minutes 48 seconds West 351.75 feet parallel with the north line of the Southeast Quarter of said Southwest Quarter to a 5/8 inch rod with cap; thence North 00 degrees 00 minutes 00 seconds 371.43 feet parallel with the east line of said Southwest Quarter to the westerly extension of the south line of a tract of land recorded in Deed Record 297 page 172 records of Hamilton County, Indiana, said point being a 5/8 inch rod with cap; thence North 89 degrees 41 minutes 48 seconds East 351.75 feet parallel with the north line of the Southeast Quarter of said Southwest Quarter and along the westerly extension and south line of said tract of land and the south line of a tract of land recorded in Deed Record 332 page 468 to the Point of Beginning.

ALSO

A part of the Southeast Quarter of the Southwest Quarter of Section 4, Township 18 North, Range 3 East located in Washington Township, Hamilton County, Indiana, being bounded as follows: Commencing at the northeast corner of the Southeast Quarter of the Southwest Quarter of Section 4, Township 18 North, Range 3 East, said point being colinear with and equidistant from the northeast corner and the southeast corner of said Southwest Quarter; thence South 00 degrees 00 minutes 00 seconds (assumed bearing) 300.00 feet on and along the east line of said Southwest Quarter to the Southeast corner of a tract of land recorded as Deed Record 324, page 769, records of Hamilton County, Indiana; thence South 89 degrees 41 minutes 48 seconds West 1005.15 feet parallel with the north line of the Southeast Quarter of said Southwest Quarter and along the south line of said tract of land, the South line of a tract of land described in Deed Record 332, page 468, records of Hamilton County, Indiana and the South line and the Westerly extension of the South line of a tract of land described in Deed Record 297 page 172, records of Hamilton County, Indiana to a 5/8 inch iron rod with cap, said point being the Point of Beginning of this description;

CONTINUED

thence South 00 degrees 00 minutes 00 seconds 371.43 feet parallel with the east line of said Southwest Quarter to a 5/8 inch iron rod with cap; thence South 89 degrees 41 minutes 48 seconds West 351.92 feet parallel with the north line of the Southeast Quarter of said Southwest Quarter to the west line of the Southeast Quarter of said Southwest Quarter, said point being a 5/8 inch iron rod with cap; thence North 00 degrees 01 minutes 41 seconds East 371.43 feet on and along the west line of the Southeast Quarter of said Southwest Quarter to its intersection with the westerly extension of the South line of a tract of land described in Deed Record 297 page 172, records of Hamilton County, Indiana, said point being a 5/8 inch iron rod with cap; thence North 89 degrees 41 minutes 48 second East 351.74 feet parallel with the north line of the Southeast Quarter of said Southwest Quarter and along the westerly extension of said tract of land to the Point of Beginning.

297



Exempt from disclosure form Requirement

12.00

(2)

QUITCLAIM DEED

Instrument
9609647330

THIS INDENTURE WITNESSETH, That JENNIFER L. KAIM, adult ("Grantor") of HAMILTON County, in the State of Indiana, for the sum of One Dollar (\$1.00) and other valuable consideration, the receipt of which is hereby acknowledged, QUITCLAIMS her interest in the following described real estate to JAMES J. KAIM, adult, of HAMILTON County.

The real estate in HAMILTON County, in the State of Indiana, which is the subject of this deed is described as follows:

SEE ATTACHED LEGAL DESCRIPTION

Subject to all taxes, easements and rights of way of Record.

IN WITNESS WHEREOF, the Grantor have executed this deed, this 3rd day of September, 1996.

Signature:

Jennifer L. Kaim

Printed: JENNIFER L. KAIM

9609647330
Filed for Record in
HAMILTON COUNTY, INDIANA
MARY L. CLARK
On 11-07-1996 At 12:25 pm.
GCD 12.00

Send Tax Statements to Grantee's Post Office Address of: 12378 TORBERG PLACE

FISHERS, IN 46038

STATE OF INDIANA)

)SS:

COUNTY OF HAMILTON)

Before me, a Notary Public in and for said County and State, personally appeared JENNIFER L. KAIM, who acknowledged the execution of the foregoing Quitclaim Deed, and who, having been duly sworn, stated that any representations therein contained are true. Witness my hand and Notarial Seal this 3rd day of September, 1996.

Signature:

C. Diane Mitchell

County of Residence: Hamilton

Printed: C. Diane Mitchell

My Commission Expires: 10-17-97

This instrument was prepared by Brian S. Gordon, Attorney at Law
GORDON & GORDON, P.C., ATTORNEYS AT LAW 9850 N. 950 E. Brownsburg, Indiana

DULY ENTERED FOR TAXATION

Subject to final acceptance for transfer
2 day of NOV 19 96

J. M. Ogle Auditor
Hamilton County

Parcel # 020904-0031-014.014

LEGAL DESCRIPTION

TAJIA HOUSE
 100 2175 BETA
 1. INCHES
 2. 100

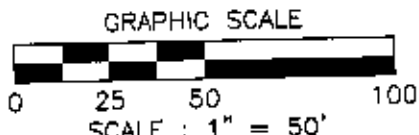
SITE DEVELOPMENT PLAN

PART OF THE SW 1/4, SECTION 4, TOWNSHIP 18 NORTH,
RANGE 3 EAST, WASHINGTON TOWNSHIP,
HAMILTON COUNTY, INDIANA

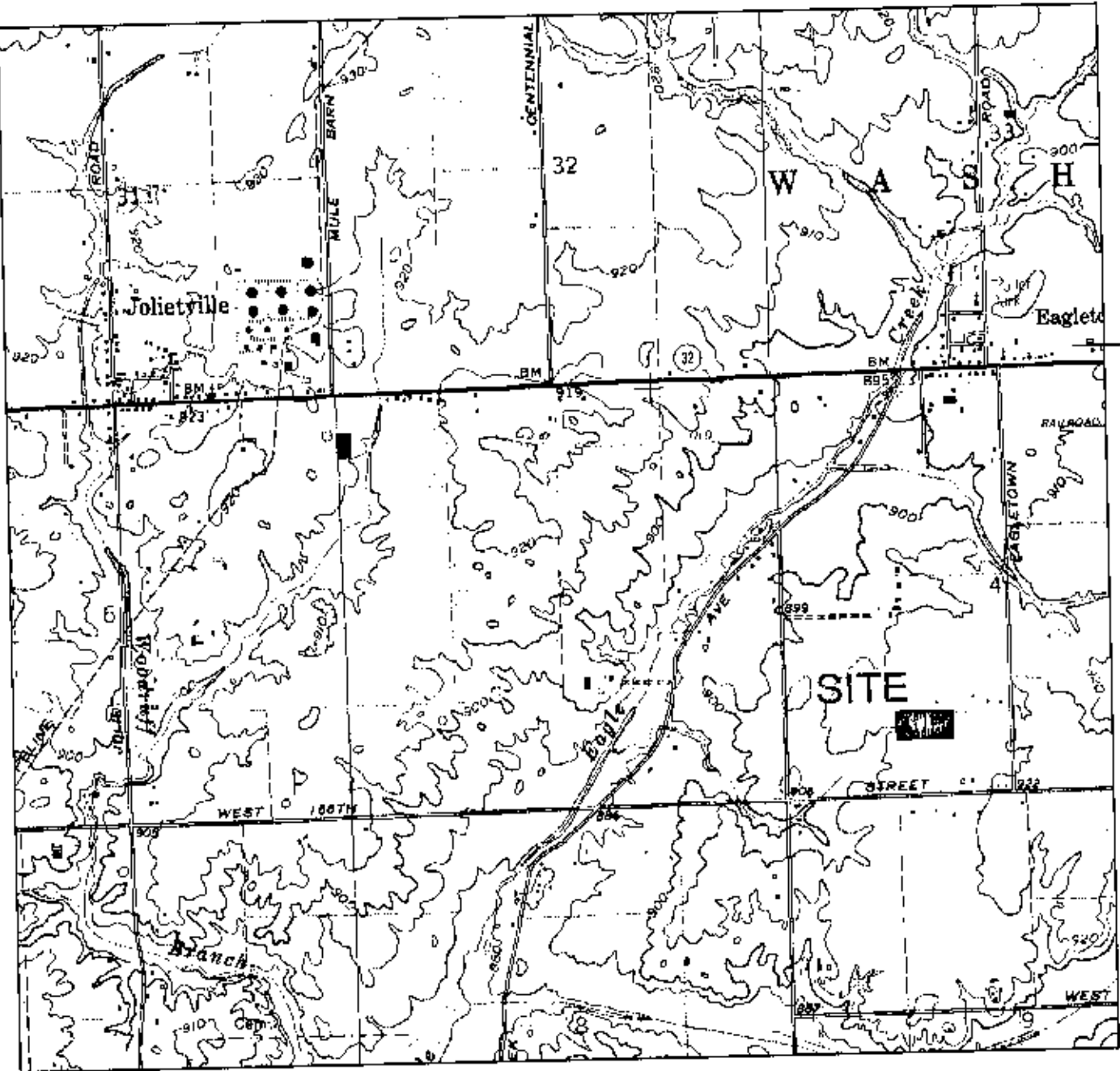
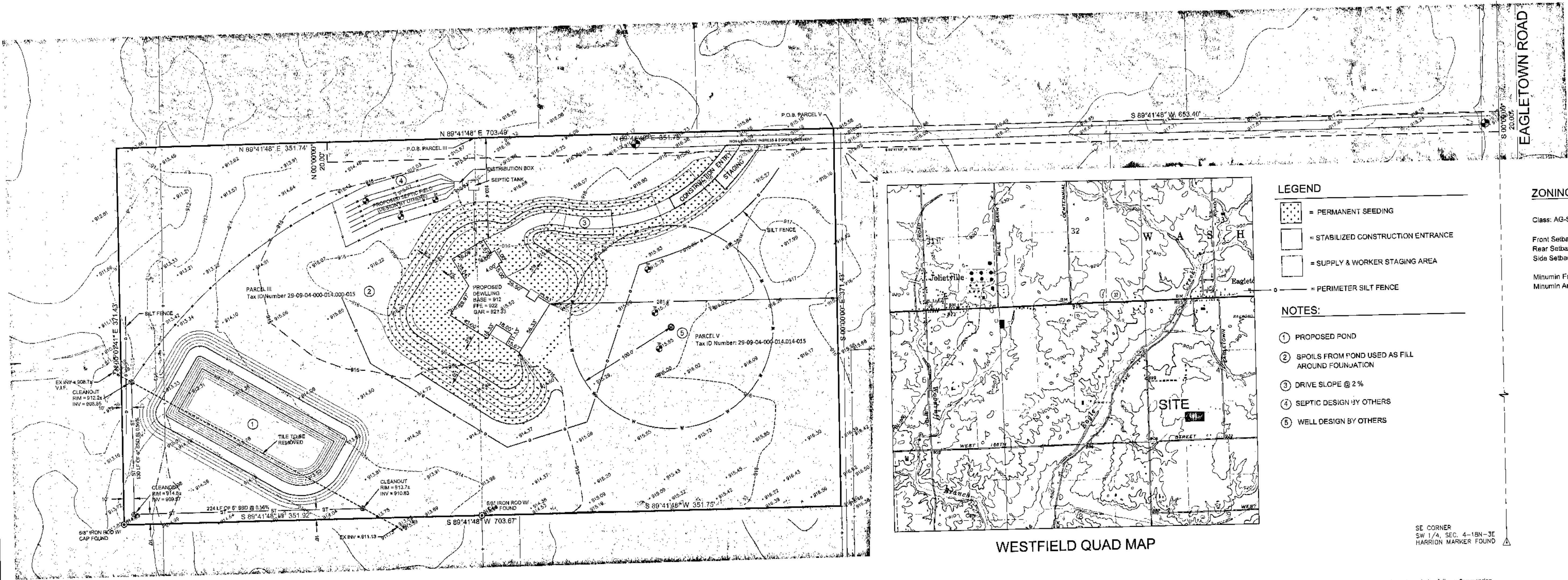
PARCEL NO: 29-09-04-000-014.000-015
29-09-04-000-014.014-015

NE CORNER
SW 1/4, SEC. 4-18N-3E
HARRISON MARKER FOUND

EAGLETOWN ROAD



Copyright © by J D Hall Land Surveying, 2014



- LEGEND
- PERMANENT SEEDING
 - STABILIZED CONSTRUCTION ENTRANCE
 - SUPPLY & WORKER STAGING AREA
 - PERIMETER SILT FENCE
- NOTES:
- PROPOSED POND
 - SPOILS FROM POND USED AS FILL AROUND FOUNDATION
 - DRIVE SLOPE @ 2%
 - SEPTIC DESIGN BY OTHERS
 - WELL DESIGN BY OTHERS

ZONING:

Class: AG-SF-1 (Single Family Rural District)

Front Setback: 80'
Rear Setback: 30'
Side Setback: 30'

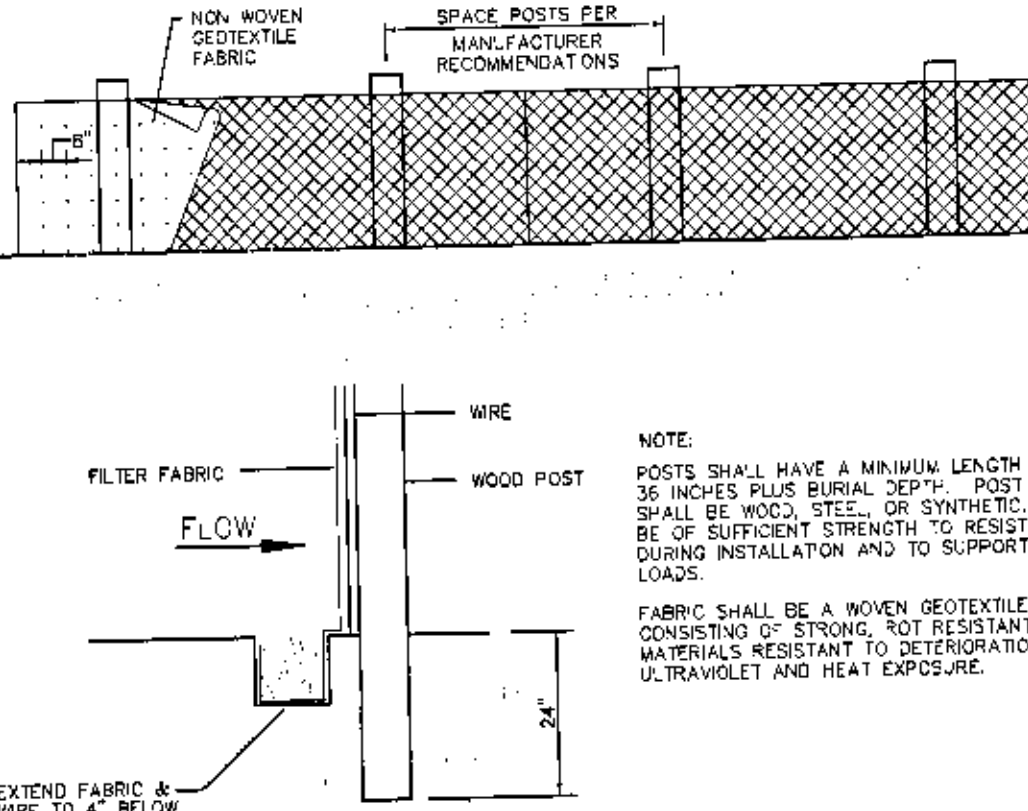
Mininum Frontage: 250'
Mininum Area: 3 acres

SEASONAL SOIL PROTECTION CHART

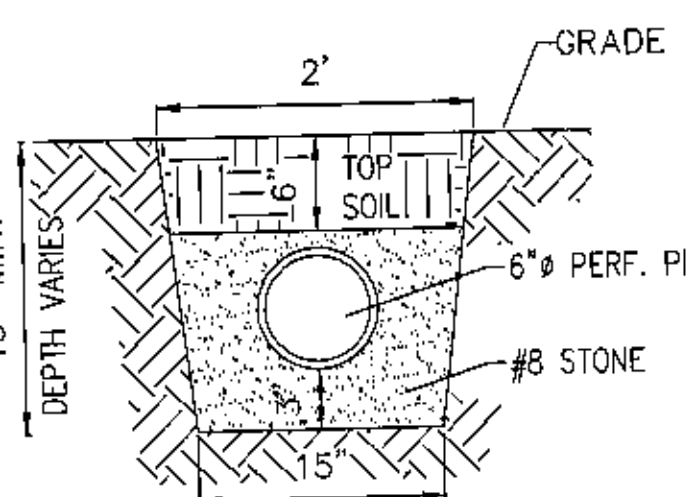
STABILIZATION PRACTICE	JAN.	FEB.	MAR.	APR.	MAY	JUNE	JULY	AUG.	SEPT.	OCT.	NOV.	DEC.
PERMANENT SEEDING												
DORMANT SEEDING												
TEMPORARY SEEDING												
SODDING												
MULCHING												

A = KENTUCKY BLUEGRASS 100 LBS./ACRE; CREEPING RED FESCUE 100 LBS./ACRE;
PLUS 2 TONS STRAW MULCH/ACRE, OR ADD ANNUAL RYEGRASS 20 LBS./ACRE
B = KENTUCKY BLUEGRASS 120 LBS./ACRE; CREEPING RED FESCUE 120 LBS./ACRE;
PLUS 2 TONS STRAW MULCH/ACRE, OR ADD ANNUAL RYEGRASS 30 LBS./ACRE
C = SPRING OATS 3 BUSHELS/ACRE
D = WHEAT OR RYE 2 BUSHELS/ACRE
E = ANNUAL RYEGRASS 40 LBS./ACRE (1 LB./1000 SQ. FT.)
F = SOD
G = STRAW MULCH 2 TONS/ACRE
*A/F = IRRIGATION NEEDED DURING JUNE, JULY, AUGUST AND/OR SEPTEMBER
** = IRRIGATION NEEDED FOR 2 TO 3 WEEKS AFTER SUPPLYING SOD

SEEDBED PREPARATION FOR PERMANENT SEEDING:
1. TEST SOIL TO DETERMINE pH AND NUTRIENT LEVELS.
(CONTACT COUNTY SWCD OR COOPERATIVE EXTENSION OFFICE FOR ASSISTANCE AND
SOILS INFORMATION, INCLUDING AVAILABLE TESTING SERVICES.)
2. IF SOIL pH IS UNSUITABLE FOR THE SPECIES TO BE SEEDING, APPLY LIME ACCORDING
TO TEST RECOMMENDATIONS.
3. FERTILIZE AS RECOMMENDED BY THE SOIL TEST. IF TESTING WAS NOT DONE, CONSIDER
APPLYING 400-500 LBS./ACRE OF 15-15-15 ANALYSIS, OR EQUIVALENT, FERTILIZER.
4. TILL TOP SOIL TO OBTAIN A UNIFORM SEEDBED, WORKING THE FERTILIZER AND LIME INTO
THE SOIL 2-4 INCHES DEEP WITH A DISK OR A RAKE OPERATED ACROSS THE SLOPE.
RULE 5 REQUIRES ALL DISTURBED AREAS LIKELY TO BE ERODED FOR 15 DAYS SHALL HAVE SURFACE
STABILIZATION APPLIED. WHEN WEATHER CONDITIONS PREVENT RAPID RESTORATION OF GRASS,
THEN 27/AC MULCH WILL BE USED TO ENSURE GROUND STABILIZATION REQUIREMENTS ARE MET.



SILT FENCE CONSTRUCTION



SUB-SURFACE TILE

PARCEL III
A part of the Southeast Quarter of the Southwest Quarter of Section 4, Township 18 North, Range 3 East located in Washington Township, Hamilton County, Indiana, being bounded as follows: Commencing at the Northeast corner of the Southeast Quarter of the Southwest Quarter of Section 4, Township 18 North, Range 3 East, said point being collinear with and equidistant from the Northeast corner and the Southeast corner of said Southwest Quarter; thence South 00°00'00" (assumed bearing) 300.00 feet on and along the East line of said Southwest Quarter to the Southeast corner of a tract of land recorded as Deed Record 324, page 769, records of Hamilton County, Indiana, thence South 89°41'48" West 1005.15 feet parallel with the North line of the Southeast Quarter of said Southwest Quarter and along the South line of said tract of land, the South line of a tract of land described in Deed Record 297, page 172, records of Hamilton County, Indiana, and the South line of the Southeast Quarter of said Southwest Quarter to a 5/8 inch iron rod with cap, said point being the point of beginning of this description; thence South 00°00'00" of a tract of land described in Deed Record 297, page 172, records of Hamilton County, Indiana, to a 5/8 inch iron rod with cap, said point being the point of beginning of this description; thence South 00°00'00" 371.43 feet parallel with the East line of said Southwest Quarter to a 5/8 inch iron rod with cap; thence South 89°41'48" West 351.92 feet parallel with the North line of the Southeast Quarter of said Southwest Quarter to a 5/8 inch iron rod with cap; thence North 00°01'41" East 371.43 feet on and along the West line of the Southeast Quarter of the said Southwest Quarter, said point being a 5/8 inch iron rod with cap; thence North 00°01'41" East 371.43 feet on and along the West line of the Southeast Quarter of the said Southwest Quarter to its intersection with the Westerly extension of the South line of a tract of land described in Deed Record 297, page 172, records of Hamilton County, Indiana, said point being a 5/8 inch iron rod with cap; thence North 89°41'48" East 351.74 feet parallel with the North line of the Southeast Quarter of said Southwest Quarter and along the Westerly extension of said tract of land to the point of beginning.

Tax ID Number: 29-09-04-000-014.000-015

PARCEL V
A PART OF THE Southeast Quarter of the Southwest Quarter of Section 4, Township 18 North, Range 3 East located in Washington Township, Hamilton County, Indiana, being bounded as follows: Commencing at the Northeast corner of the Southeast Quarter of the Southwest Quarter of Section 4, Township 18 North, Range 3 East, said point being collinear with and equidistant from the Northeast corner and the Southeast corner of said Southwest Quarter; thence South 00°00'00" (assumed bearing) 300.00 feet on and along the East line of said Southwest Quarter to the Southeast corner of a tract of land recorded as Deed Record 324, page 769, records of Hamilton County, Indiana, thence South 89°41'48" West 653.40 feet parallel with the North line of the Southeast Quarter of said Southwest Quarter and along the South line of said tract of land to its Southwest corner, said point also being the Southeast corner of a tract of land recorded as Deed Record 332, page 468, records of Hamilton County, Indiana, along the South line of said tract of land to its Southwest corner, said point also being the Southeast corner of a tract of land recorded as Deed Record 332, page 468, records of Hamilton County, Indiana, said point also being the point of beginning of this description; said point being a 5/8 inch iron rod with cap, thence South 00°00'00" 371.43 feet parallel with the East line of said Southwest Quarter to a 5/8 inch iron rod with cap; thence South 89°41'48" West 351.75 feet parallel with the North line of the Southeast Quarter of said Southwest Quarter to a 5/8 inch iron rod with cap; thence North 00°01'41" East 371.43 feet on and along the West line of the Southeast Quarter of the said Southwest Quarter, said point being a 5/8 inch iron rod with cap; thence North 89°41'48" East 351.75 feet parallel with the North line of the Southeast Quarter of said Southwest Quarter and along the Westerly extension and South line of said tract of land and the South line of a tract of land recorded in Deed Record 332, page 468 to the point of beginning.

Tax ID Number: 29-09-04-000-014.014-015

NEW COMBINED LEGAL DESCRIPTION
A PART OF THE Southeast Quarter of the Southwest Quarter of Section 4, Township 18 North, Range 3 East located in Washington Township, Hamilton County, Indiana, being bounded as follows: Commencing at the Northeast corner of the Southeast Quarter of the Southwest Quarter of Section 4, Township 18 North, Range 3 East, said point being collinear with and equidistant from the Northeast corner and the Southeast corner of said Southwest Quarter; thence South 00°00'00" (assumed bearing) 300.00 feet on and along the East line of said Southwest Quarter to the Southeast corner of a tract of land recorded as Deed Record 324, page 769, records of Hamilton County, Indiana, thence South 89°41'48" West 653.40 feet parallel with the North line of the Southeast Quarter of said Southwest Quarter and along the South line of said tract of land to its Southwest corner, said point also being the Southeast corner of a tract of land recorded as Deed Record 332, page 468, records of Hamilton County, Indiana, along the South line of said tract of land to its Southwest corner, said point also being the Southeast corner of a tract of land recorded as Deed Record 332, page 468, records of Hamilton County, Indiana, said point also being the point of beginning of this description; said point being a 5/8 inch iron rod with cap, thence South 00°00'00" 371.43 feet parallel with the East line of said Southwest Quarter to a 5/8 inch iron rod with cap; thence South 89°41'48" West 351.75 feet parallel with the North line of the Southeast Quarter of said Southwest Quarter to a 5/8 inch iron rod with cap; thence North 00°01'41" East 371.43 feet on and along the West line of the Southeast Quarter of the said Southwest Quarter, said point being a 5/8 inch iron rod with cap; thence North 89°41'48" East 351.75 feet parallel with the North line of the Southeast Quarter of said Southwest Quarter and along the Westerly extension and South line of said tract of land and the South line of a tract of land recorded in Deed Record 332, page 468 to the point of beginning, containing 5.30 acres more or less.

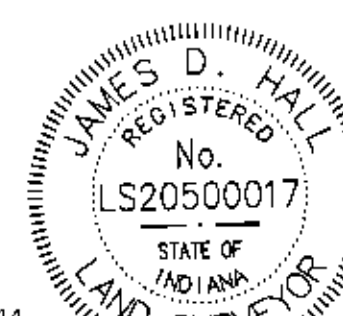
JD HALL LAND SURVEYING

PART OF THE SW QUARTER OF SECTION 4, TOWNSHIP 18 NORTH, RANGE 3 EAST
WASHINGTON TOWNSHIP
HAMILTON COUNTY, INDIANA

DWG: JDH
CHK: JDH
DATE: 10/26/14
FBL: FIELDBOOK
FIELD WORK: 10/18/14

OFFICE:
803 S. Ohio Street
Shelburne, IN 46069
PH: 317-466-3584
FX: 317-758-5510
Alt FX: 317-773-7161

10F1



10/26/2014
DATE:

EASEMENT
11236

BOOK 295 PAGE 669

THIS AGREEMENT made and entered into the 2nd day of May, 1977, by and between NOLAN STAFFORD and CATHERINE STAFFORD, Husband and Wife, (hereinafter referred to as "Sellers"), and WILLIAM KIRKMAN and SYLVIA KIRKMAN, Husband and Wife, (hereinafter referred to as "Buyers"),

WITNESSETH THAT: This Instrument Recorded May 3 1977
JUNE M. HEDGES, RECORDER, HAMILTON COUNTY, IND

In consideration of the sum of One Dollar (\$1.00) and other valuable consideration, the receipt of which is hereby acknowledged, the Sellers hereby grant unto Buyers, their successor and assigns a nonexclusive easement for Ingress and Egress over and across the following described real estate:

A part of the Southwest Quarter of Section 4, Township 18 North, Range 3 East, located in Washington Township, Hamilton County, Indiana, being more specifically described as follows:

BEGINNING at a point on the East line of said Southwest Quarter, said Point of Beginning being South 00 degrees 00 minutes 00 seconds 300.00 feet from the Northeast corner of the Southeast Quarter of said Southwest Quarter; said corner being colinear with and equidistant from the Northeast corner and the Southeast corner of said Southwest Quarter; thence South 00 degrees 00 minutes 00 seconds 20.00 feet on and along the East line of said Southwest Quarter; thence South 89 degrees 41 minutes 48 seconds West 1150.35 feet; thence North 00 degrees 00 minutes 00 seconds 20.00 feet; thence North 89 degrees 41 minutes 48 seconds East 1150.35 feet to the POINT OF BEGINNING. Being subject to all applicable easements and rights-of-way of record.

The costs of maintaining a gravel surface on said easement shall hereafter be borne by Buyers.

Sellers reserve the right to grant use of said hereinabove described easement to other persons without restriction.

IN WITNESS WHEREOF, the undersigned have hereunto set their hands, this 2nd day of May, 1977.

RECEIVED
FOR RECORD

MAY 3 3 47 PM '77

JUNE M. HEDGES
RECORDER
HAMILTON CO., IND.

Nolan Stafford
Nolan Stafford

Catherine Stafford
Catherine Stafford

Easement - Stafford
to Kirkman

Page Two

STATE OF INDIANA)
) SS:
COUNTY OF HAMILTON)

BOOK 295 PAGE 670

Personally appeared before me this day, NOLAN STAFFORD and
CATHERINE STAFFORD, Husband and Wife, and acknowledged the execu-
tion of the foregoing instrument by them to be their voluntary
act and deed.

WITNESS my hand and notarial seal, this 2nd day of

May, 1977.

Wilmer E. Goering II -H-
Wilmer E. Goering II Notary Public

My Commission expires:

2-17-81

This Instrument Recorded May 3, 1977
JUNE M. HEDGES, RECORDER, HAMILTON COUNTY, IND

This instrument prepared by:
Wilmer E. Goering II
Attorney at Law

14.00

③

TRUSTEE'S WARRANTY DEED

Instrument
9609643701

THIS INDENTURE WITNESSETH, That CATHERINE L. STAFFORD, successor Trustee of

NOLAN L. STAFFORD and CATHERINE L. STAFFORD, Trustees or their successors in trust under the NOLAN L. STAFFORD LIVING TRUST, dated January 30, 1992, and any amendments thereto; and

CATHERINE L. STAFFORD and NOLAN L. STAFFORD, Trustees or their successors in trust under the CATHERINE L. STAFFORD LIVING TRUST, dated January 30, 1992, and any amendments thereto

("Grantors") of HAMILTON County, in the State of Indiana, for the sum of One Dollar (\$1.00) and other valuable consideration, the receipt of which is hereby acknowledged, WARRANTS and CONVEYS both trusts' entire interest in the following described real estate to JENNIFER L. KAIM, adult, of HAMILTON County.

The real estate in HAMILTON County, in the State of Indiana, which is the subject of this deed is described as follows:

SEE ATTACHED LEGAL DESCRIPTION

Subject to all taxes, easements and rights of way of Record.

9609643701
Filed for Record in
HAMILTON COUNTY, INDIANA
MARY L CLARK
On 10-15-1996 At 10:43 am.
WD 14.00

IN WITNESS WHEREOF, the Grantors have executed this deed, this 3rd day of September, 1996.

Signature: *Catherine L. Stafford Trust*
Nolan L. Stafford Trust
Catherine L. Stafford Trust

Printed: CATHERINE L. STAFFORD, successor Trustee for the NOLAN L. STAFFORD LIVING TRUST dated January 12, 1992 & the CATHERINE L. STAFFORD LIVING TRUST dated January 12, 1992

Send Tax Statements to Grantee's Post Office Address of: 12378 TORBERG PLACE
FISHERS, IN 46038

STATE OF INDIANA)
)SS:
COUNTY OF Marion)

Before me, a Notary Public in and for said County and State, personally appeared CATHERINE L. STAFFORD, successor Trustee for both above named trusts, who acknowledged the execution of the foregoing Trustee's Warranty Deed, and who, having been duly sworn, stated that any representations therein contained are true. Witness my hand and Notarial Seal this 3rd day of September, 1996.

JULY ENTERED FOR TAXATION
Subject to final acceptance for transfer
15 day of OCT 19 96

Signature: *C. Diane Mitchell* County of Residence: Hamilton

Printed: C. Diane Mitchell

My Commission Expires: 10-1-97

Auditor
Hamilton County

Parcel #

This instrument was prepared by Brian S. Gordon, Attorney at Law
GORDON & GORDON, P.C., ATTORNEYS AT LAW 9850 N. 950 E. Brownsburg, Indiana 46112

A part of the Southeast Quarter of the Southwest Quarter of Section 4, Township 18 North, Range 3 East located in Washington Township, Hamilton County, Indiana, being bounded as follows: Commencing at the Northeast corner of the Southeast Quarter of the Southwest Quarter of Section 4, Township 18 North, Range 3 East, said point being colinear with and equidistant from the northeast corner and the southeast corner of said Southwest Quarter; thence South 00 degrees 00 minutes 00 seconds (assumed bearing) 300.00 feet on and along the east line of said Southwest Quarter to the Southeast corner of a tract of land recorded as Deed Record 324 page 769 records of Hamilton County, Indiana; thence South 89 degrees 41 minutes 48 seconds West 653.40 feet parallel with the North line of the Southeast Quarter of said Southwest Quarter and along the south line of said tract of land to its Southwest corner, said point also being the Southeast corner of a tract of land recorded as Deed Record 332, page 468 records of Hamilton County, Indiana, said point also being the Point of Beginning of this description, said point being a 5/8 inch iron rod with cap; thence South 00 degrees 00 minutes 00 seconds 371.43 feet parallel with the East line of said Southwest Quarter to a 5/8 inch rod with cap; thence South 89 degrees 41 minutes 48 seconds West 351.75 feet parallel with the north line of the Southeast Quarter of said Southwest Quarter to a 5/8 inch rod with cap; thence North 00 degrees 00 minutes 00 seconds 371.43 feet parallel with the east line of said Southwest Quarter to the westerly extension of the south line of a tract of land recorded in Deed Record 297 page 172 records of Hamilton County, Indiana, said point being a 5/8 inch rod with cap; thence North 89 degrees 41 minutes 48 seconds East 351.75 feet parallel with the north line of the Southeast Quarter of said Southwest Quarter and along the westerly extension and south line of said tract of land and the south line of a tract of land recorded in Deed Record 332 page 468 to the Point of Beginning.

ALSO

A part of the Southeast Quarter of the Southwest Quarter of Section 4, Township 18 North, Range 3 East located in Washington Township, Hamilton County, Indiana, being bounded as follows: Commencing at the northeast corner of the Southeast Quarter of the Southwest Quarter of Section 4, Township 18 North, Range 3 East, said point being colinear with and equidistant from the northeast corner and the southeast corner of said Southwest Quarter; thence South 00 degrees 00 minutes 00 seconds (assumed bearing) 300.00 feet on and along the east line of said Southwest Quarter to the Southeast corner of a tract of land recorded as Deed Record 324, page 769, records of Hamilton County, Indiana; thence South 89 degrees 41 minutes 48 seconds West 1005.15 feet parallel with the north line of the Southeast Quarter of said Southwest Quarter and along the south line of said tract of land, the South line of a tract of land described in Deed Record 332, page 468, records of Hamilton County, Indiana and the South line and the Westerly extension of the South line of a tract of land described in Deed Record 297 page 172, records of Hamilton County, Indiana to a 5/8 inch iron rod with cap, said point being the Point of Beginning of this description;

CONTINUED

thence South 00 degrees 00 minutes 00 seconds 371.43 feet parallel with the east line of said Southwest Quarter to a 5/8 inch iron rod with cap; thence South 89 degrees 41 minutes 48 seconds West 351.92 feet parallel with the north line of the Southeast Quarter of said Southwest Quarter to the west line of the Southeast Quarter of said Southwest Quarter, said point being a 5/8 inch iron rod with cap; thence North 00 degrees 01 minutes 41 seconds East 371.43 feet on and along the west line of the Southeast Quarter of said Southwest Quarter to its intersection with the westerly extension of the South line of a tract of land described in Deed Record 297 page 172, records of Hamilton County, Indiana, said point being a 5/8 inch iron rod with cap; thence North 89 degrees 41 minutes 48 second East 351.74 feet parallel with the north line of the Southeast Quarter of said Southwest Quarter and along the westerly extension of said tract of land to the Point of Beginning.

The Westfield Washington Township Board of Zoning Appeals met at 7:00 p.m. on Tuesday, November 11, 2014, at Westfield City Hall. Members present included Dan Degnan, Martin Raines and Ron Rothrock. Also present were Kevin Todd, Senior Planner; Andrew Murray, Associate Planner; Jeffrey Lauer, Associate Planner; and, Brian Zaiger, City Attorney.

APPROVAL OF MINUTES

Rothrock moved to approve the October 14, 2014, minutes.

Raines seconded, and the motion passed by 3-0 vote.

Raines moved to adopt the 2015 Board of Zoning Appeals calendar.

Rothrock seconded, and the motion passed 3-0.

Todd reviewed the Public Hearing Rules and Procedures.

NEW BUSINESS

1411-SE-04

(PUBLIC HEARING)

20481 Horton Road

Horvath Communications LLC

By Clark, Quinn, Moses, Scott & Grahn, LLP

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

Todd presented an overview of the requested Special Exception to allow a new Wireless Communication Service Facility in the Agriculture/Single-Family Rural (AG-SF1) District.

Russell Brown, Clark, Quinn, Moses, Scott & Grahn, LLP, Petitioner gave an explanation of the project.

Public Hearing opened at 7:21 p.m.

No public comment.

Public Hearing closed at 7:22 p.m.

Rothrock motioned to approve 1411-SE-04 with the following staff recommendations:

1. The tower be a monopole design;
2. The tower not exceed 175 feet in height; and,
3. The area around the tower be landscaped in a manner that is substantially similar to the submitted landscape plan (see Exhibit 4).

Raines seconded, and the motion was passed 3-0.

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

Rothrock seconded, and the motion passed 3-0.

1411-VS-13

240 Creekwood Drive

(PUBLIC HEARING)

Ronald and Ellen Williams

The petitioner is requesting a Variance of Standard for a reduction in the Side Yard Minimum Building Setback Line in the SF3: Single-Family Medium Density District (Article 4.6(E)(2)).

Lauer presented an overview of the requested Variance of Standard for a reduction in the Side Yard Minimum Building Setback Line in the Single Family Medium Density SF3 District.

Ellen Williams, Petitioner, gave an explanation of the project.

Public Hearing opened at 7:27 p.m.

No public comment.

Public Hearing closed at 7:28 p.m.

Raines motioned to approve 1411-VS-13.

Rothrock seconded, and the motion was passed 3-0.

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

Rothrock seconded, and the motion passed 3-0.

1411-VS-14

140 East 161st Street

(PUBLIC HEARING)

James Meyers

The petitioner is requesting a Variance of Standard to allow: (i) a reduction in the Minimum Lot Area (Article 4.2 C); (ii) a reduction in the Minimum Lot Frontage (Article 4.2(D)); (iii) a reduction in the Side Yard Minimum Building Setback Lines (Article 4.2C); and (iv) the total square footage of Accessory Buildings to exceed the Principal Building's square footage (Article 6.1(B)(2)).

Murray presented an overview of the requested Variances of Standard to allow: a reduction in the Minimum Lot Area, a reduction in the Minimum Lot Frontage, a reduction in the Side Yard Minimum Building Setback Lines and the total square footage of Accessory Buildings to exceed the Principal Building's square footage required in the AG-SF1 District.

Curtis Butcher, petitioner representative, gave an explanation of the project.

Public Hearing opened at 7:50 p.m.

Board members were presented a handout with Public Comment and pictures from Madison McCall, 27 Markelville Lane to review regarding McCall's concern with Petition 1411-VS-14. Her concerns were regarding the landscape mound between her property and the subject property. She felt the dirt was excessive and was causing the fence between the properties to deteriorate. She also stated that the dirt is causing her backyard to flood every time it rains.

Springmill Station Task Group submitted a statement regarding the request.

Public Hearing closed at 7:53 p.m.

Butcher explained that dirt was brought in to make 6' tall mounds to be a buffer between the subject property and the neighborhood yards to the north. He stated that trees were planted to also help buffer, but they died due to lack of water and not the dirt being contaminated.

Raines motioned to approve 1411-VS-14 with the following staff recommended conditions (to be completed within 30 days following determination made by the Board):

1. That the Petitioner dedicates a thirty (30) foot half right of way along the Property's 161st Street frontage to the City of Westfield; and
2. The exterior building materials for all structures shall be a finished siding material that is consistent and compatible with the Principal Building (e.g. wood, fiber cement).

Rothrock seconded, and the motion was passed 3-0.

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

Rothrock seconded, and the motion passed 3-0.

1411-VU-04

2195 W 211th Street

(PUBLIC HEARING)

William Eagleson Jr.

The petitioner is requesting a Variance of Use to allow a Construction Trade Office (landscaping contractor business) in the AG-SF1: Agriculture/Single-Family Rural District (Chapter 13: Use Table)

Lauer presented an overview of the requested Variance of Use to allow a Construction Trade Office (landscaping contractor business) in the AG-SF1.

William J. Eagleson Jr., Petitioner, gave a presentation of the project.

Public Hearing opened at 8:07 p.m.

Ben Carr, 2204 W 211th Street; Lives across the street from the barn and has spent the last two years restoring the property himself and is concerned about a business so close to the street and directly across from their driveway. He expressed concern about the distance of the proposed parking from the road. He stated he would like to know how the parking will be screened from his property and expressed a concern with the impact of additional traffic on an already busy 211th Street and with night-time truck traffic and loading/unloading. He asked about security lighting for the parking and stated he does not support the variance request.

Public Hearing closed at 8:11 p.m.

Petitioner agreed there will be a buffer and that the area will keep the integrity and match the existing neighborhood. Petitioner stated he will work with all of the neighbors on any concerns that they may have.

Rothrock motioned to approve 1411-VU-14 with the staff recommendation:

- The Construction Trade Office use shall be limited to a landscaping contractor operation and limited in scope and operation to the Petitioner's Site Plan and Petitioner's Statement of Intent. Any expansion or substantial alteration to the scope and operation of the Variance of Use, as determined by the Director, shall require approval by the Board of Zoning Appeals.

Raines seconded, and the motion was passed 3-0.

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

Raines seconded, and the motion passed 3-0.

REPORTS/COMMENTS

APC LIASON:

No report.

EDC STAFF:

Murray presented a report.

Rothrock motioned to adjourn the meeting.

Raines seconded, and the motion passed 3-0.

The meeting adjourned at 8:20 p.m.

Chairperson
Dan Degnan

Secretary
Matthew Skelton, Director