



## *Westfield City Council Report*

<b>Ordinance Number:</b>	15-12
<b>APC Petition Number:</b>	1506-ZOA-01
<b>Requested Action:</b>	Approval of an Ordinance to Amend Various Provisions of the Westfield-Washington Township Unified Development Ordinance.
<b>Exhibits:</b>	<ol style="list-style-type: none"><li>1. Ordinance 15-12</li><li>2. Street Tree Exhibit</li><li>3. Dumpster Enclosures (UDO Excerpts)</li><li>4. Gasoline Service Station Canopies Exhibit</li><li>5. APC Certification</li></ol>
<b>Prepared by:</b>	Jesse M. Pohlman, Senior Planner

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### **PETITION HISTORY**

This petition was introduced at the May 11, 2015, City Council meeting. The petition received its public hearing at the May 18, 2015, Advisory Plan Commission (the "APC") hearing. The APC forwarded the petition to the City Council with a favorable recommendation at its May 18, 2015, meeting (see APC Certification at **Exhibit 5**). The petition is scheduled to be at the Council's May 26, 2015, meeting for adoption consideration.

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### **PROCEDURAL**

- Procedures to amend a zoning ordinance are established by Indiana Code (I.C. 36-7-4-600, et seq.). Amendments are required to be considered at a public hearing. The public hearing for this petition is scheduled for the May 18, 2015, Advisory Plan Commission meeting.
- No action by the Council is required at this time.

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### **OVERVIEW**

The proposed amendment to the Westfield-Washington Township Unified Development Ordinance (the "UDO") addresses the following topics, which are further summarized in detail below.

1. Street Trees (residential)
2. Dumpster Enclosures
3. Gasoline Service Station Canopies
4. Nonconforming Lots of Record (downtown)

After consideration by the Council's Committee on Ordinance Revisions, the proposed amendments are reflected in the attached ordinance (see **Exhibit 1**).

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### **STREET TREES:**

**Standard:** Article 6.8(J) of the UDO (pg. 6-32) requires street trees within residential developments. Street trees are required either: (i) within the public right-of-way in accordance with the City's Construction Standards for a local street; or (ii) in the front yard of the adjacent lot within 10 feet of the right-of-way.

**Issue:** Street trees are desired between the sidewalk and curb to enhance the streetscape; however, the City's prior street cross-section that allowed street trees within the right-of-way has proven undesirable by developers because of the wider right-of-way required (required 10'-wide planting area for street trees). Alternatively, placing the street trees in the front yard of the adjacent lot for the narrower right-of-way cross-section has also proven challenging due to conflicts with utility infrastructure and easements.

**Amendment:** The proposed amendment is in conjunction with the Board of Public Works and Safety's recently amended street cross-section. The amended cross-section provides for an 8'-wide tree lawn between the curb and sidewalk for street trees. To offset the impact of the wider right-of-way, the amendment to the UDO will allow for a reduction in the front yard setback and minimum lot size standards.

The reductions would be proportionate to the increase of the right-of-way. The specific details of the cross-sections are further illustrated in **Exhibit 2**.

The amendment also: (i) incorporates maintenance and species standards that currently exist either within the City's municipal code or the City's Construction Standards; and (ii) requires that the street trees be shown and reviewed as part of a subdivision's Overall Development Plan.

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### **DUMPSTER ENCLOSURES:**

**Standard:** The UDO (see **Exhibit 3**) requires that dumpsters be screened with enclosures. The UDO also encourages that enclosures have pedestrian access openings (or man-doors) to minimize the frequency of the larger service gates being opened and potentially remaining open.

**Amendment:** The proposed amendment (Article 6.1(H)(6)) requires pedestrian access openings for dumpster enclosures. The amendment (Article 6.1(H)(3)) further clarifies that the enclosure itself shall consist of Masonry Materials that matches or complements the Principal Building.

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### **GASOLINE SERVICE STATION CANOPIES:**

**Standard:** Article 6.3(F)(11)(c) Architectural Standards; Business Districts; Gasoline Service Station Canopies; Roof Design of the UDO establishes design standards for Gasoline Service Stations that reads as follows:

11. Gasoline Service Station Canopies: This section shall apply to canopies for all Gasoline Service Stations:
- a. Materials: The support structures for canopies shall be wrapped in Masonry Materials to complement the Principal Building. Canopy fascia and canopy roof materials shall match the color and texture of the Principal Building.
  - b. Height: In order to reduce the visual impact of the canopy structure and corresponding lighting, the maximum height of the canopy clearance shall be sixteen (16) feet and the maximum top of the canopy shall be twenty-two (22) feet. The maximum width of the canopy fascia shall be thirty (30) inches.
  - c. Roof Design: A canopy shall include a pitched or sloped roof design.

Issue: The Plan Commission has recently approved a number of development plans for gasoline service stations. As a result of those proposals, which are reflected in **Exhibit 4**, this amendment is being proposed to refine the standard for the desired canopy roof design.

Amendment: The proposed amendment is intended to require a more balanced proportion between the canopy's fascia and the sloped roof. As a result, Article 6.3(F)(11)(c) Roof Design is proposed to be revised as follows: "A canopy shall include a pitched or sloped roof design with a minimum height of two and one half (2.5) times the width of the canopy fascia."

At the public hearing, the Plan Commission discussed further refining this standard to incorporate a minimum roof pitch that qualifies as "pitched" or "sloped". As a result, the proposed amendment, as forwarded by the Plan Commission, now reads "A canopy shall include a pitched or sloped roof ~~design~~ between 5:12 and 10:12, and the minimum roof height above the canopy fascia shall be two and one half (2.5) times the width of the canopy fascia."

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#### **NONCONFORMING LOTS OF RECORD:**

Standard: Article 9.4 Nonconforming Regulations; Nonconforming Lots of Record reads:

##### **9.4 Nonconforming Lots of Record**

- A. A Legal Nonconforming Lot shall be deemed as such for any Lot that: (i) was established and recorded prior to the date of passage of the Westfield Washington Township Zoning Ordinance of December 20, 1977; and (ii) no longer conforms to the regulations set forth in this Ordinance, or its subsequent amendments, as applicable to Lots (e.g., Lot Area, Lot Width, Lot Depth, Lot Frontage).
- B. A Legal Nonconforming Lot may be: (i) used as permitted by the Zoning District in which the Lot is located; and (ii) built upon, only if the Lot and improvements otherwise comply with all other standards of this Ordinance, and provided that:
  1. The Property Owner of said parcel does not own, in whole or in part, sufficient adjacent land to enable the parcel to conform to the dimensional and acreage requirements of this Ordinance;
  2. The Lot Width is no less than one hundred (100) feet; and
  3. The Lot Area is no less than one (1) acre.
- C. A Legal Nonconforming Lot shall lose its status as Legal Nonconforming Lot if the Lot has been either: (i) combined into a single Lot or parcel that either fully conforms with the standards of the Zoning District or decreases the nonconformity; or (ii) is combined with a conforming Lot or parcel. Once combined with another Lot, a Legal Nonconforming Lot shall not thereafter be subdivided except when the resulting Lots are in full compliance with this Ordinance.

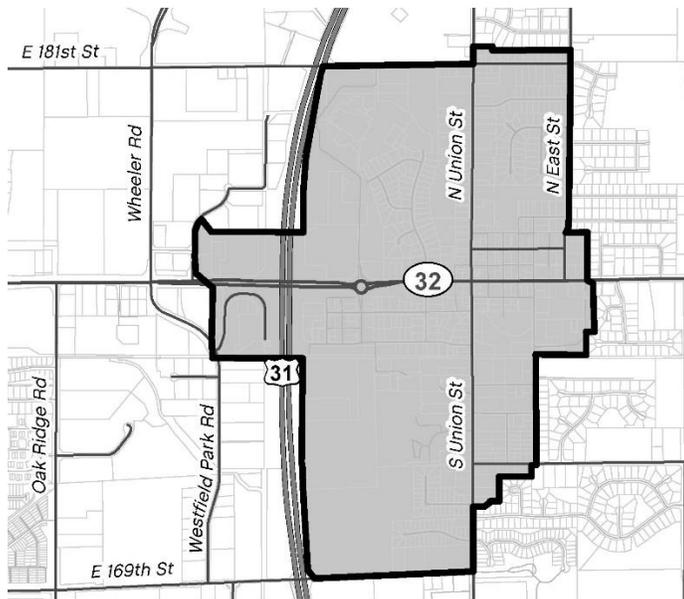
Issue: The yellow highlighted section provides that a Legal Nonconforming Lot (a lot that was legal when created but that no longer complies with the current lot size and width requirements) may only be built upon if it meets those additional criteria.

While these additional criteria may be appropriate for the non-urbanized areas of the community, these additional criteria have inhibited the ability for property owners within the downtown area to build or rebuild on existing lots, even though the lots were legal when they were created.

Amendment: As a result, the proposed amendment adds a new section that removes these additional criteria for those Legal Nonconforming Lots within the downtown area as follows:

“A Legal Nonconforming Lot within the geographic area identified in FIGURE 9.4(1): DOWNTOWN AREA may be: (i) used as permitted by the Zoning District in which the Lot is located; and (ii) built upon, only if the Lot and improvements otherwise comply with all other standards of this Ordinance.”

FIGURE 9.4(1): DOWNTOWN AREA



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## **STATUTORY CONSIDERATIONS**

Indiana Code 36-7-4-603 states that reasonable regard shall be paid to:

1. The Comprehensive Plan.
2. Current conditions and the character of current structures and uses.
3. The most desirable use for which the land is adapted.
4. The conservation of property values throughout the jurisdiction.
5. Responsible growth and development.

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**RECOMMENDATIONS/ACTIONS**

APC Public Hearing

Public Hearing/Recommendation:      May 18, 2015

APC Recommendation

At its May 18, 2015, meeting, the APC forwarded a **favorable recommendation** of Ordinance No. 15-12 (APC Petition No. 1506-ZOA-01) to the Council.

City Council

Introduction:                      May 11, 2015

Eligible for Adoption:      June 08, 2015

Submitted by: Jesse M. Pohlman, Senior Planner  
Economic and Community Development Department

## ORDINANCE 15-12

### AN ORDINANCE TO AMEND A VARIETY OF PROVISIONS OF THE WESTFIELD-WASHINGTON TOWNSHIP UNIFIED DEVELOPMENT ORDINANCE

**WHEREAS**, the City of Westfield, (the “City”) is a duly formed municipal corporation within the State of Indiana, governed by its duly elected Mayor and Common Council (the “Council”); and,

**WHEREAS**, it is the duty and the responsibility of the City to administer the Westfield-Washington Township Unified Development Ordinance (the “UDO”) throughout the City and Washington Township Indiana through a Joinder Agreement; and,

**WHEREAS**, from time to time it becomes necessary to amend and revise the UDO, and pursuant to I.C. § 36-7-4-602 and I.C. § 36-7-4-701, the City is authorized to amend the UDO; and

**WHEREAS**, the Westfield-Washington Township Advisory Plan Commission forwarded Petition No. 1506-ZOA-01 to the Council with a favorable recommendation in accordance with Indiana Code § 36-7-4-608, as required by Indiana Code § 36-7-4-1505; and

**NOW, THEREFORE, BE IT ORDAINED** by the Common Council of the City of Westfield, Hamilton County, Indiana, meeting in regular session, that the following provisions of the Unified Development Ordinance are amended as follows:

**Section 1.** **Article 6.8(J) Landscaping Standards; Street Trees** shall be amended as follows:

**J. Street Trees:** Street Trees shall be required in accordance with the following, and the placement standards set forth herein:

1. Requirement: Street Trees shall be required within the right-of-way of all new or re-developed Local Streets (public or private) within Residential Districts Major Subdivisions. Street Trees shall only be required on one side of a Residential Frontage Road. Please note that the [Westfield Code of Ordinance; Chapter 34-141 et seq.](#), as amended, also applies within the City’s corporate limits.
2. Location: Street Trees shall be located within the Right-of-way shall be installed in a minimum eight-foot (8’) wide planting strip between the curb and sidewalk in accordance with the City’s Construction Standards (see also Article 7.3 Principles and Standards of Design). If the Director determines conditions inhibit the planting of the Street Tree within the Right-of-way, the Street Tree is not planted within the Right-of-way, then the Street Trees shall be planted on the adjacent Lot or Common Area within ten (10) feet of the Right-of-way; however, the Street Tree shall not be credited towards that Lot or Common Area’s Minimum Lot Landscaping Requirements.

3. Spacing: Street Trees shall be required an average of every fifty (50) feet; however, the Street Trees may be spaced at a maximum spacing of sixty (60) feet but at a minimum spacing of twenty-five (2025) feet. In addition to the placement standards of this Article, Street Trees shall also be planted a minimum of ten (10) feet away from Driveways, Alleys, fire hydrants, mailboxes and other similar improvements.
4. Front Yard and Lot Size Reductions: If a Lot is adjacent to a Right-of-way that includes Street Trees within the Right-of-way in accordance with this section, then the Lot's Minimum Lot Size and Front Yard Minimum Building Setback Line may be reduced in accordance with Article 6.10 Lot Standards and Article 6.16 Setback Standards, respectively.
5. Maintenance: The maintenance of Street Trees shall be the responsibility of the development's property management group, homeowners' association or other similar legal entity, and the association's or entity's declaration of covenants and restrictions shall include provisions for the maintenance and replacement of Street Trees. In the absence of a homeowners' association, then the maintenance of Street Trees shall be the responsibility of the owner of the adjacent Lot.
6. Street Tree Species: Permitted Street Tree species shall be as set forth in the City's Construction Standards (see Article 7.3 Principles and Standards of Design).

**Section 2.**

**Article 6.10 Lot Standards** shall be amended to add a section (E) as follows: "E. Minimum Lot Size (Street Trees): If a Lot is adjacent to a Right-of-way that includes Street Trees within the Right-of-way in accordance with Article 6.8 Landscaping Standards, then the Lot's Minimum Lot Size, as established by the District in which the Lot is located, may be reduced. The permitted reduction in Minimum Lot Size shall be the Lot's Lot Frontage multiplied by three (3) feet."

**Section 3.**

**Article 6.16 Setback Standards** shall be amended to add a section (I) as follows: "I. Front Yard Building Setback Lines (Street Trees): If a Lot is adjacent to a Right-of-way that includes Street Trees within the Right-of-way in accordance with Article 6.8 Landscaping Standards, then the Lot's Front Yard Minimum Building Setback Line, as established by the District in which the Lot is located, shall be reduced by three (3) feet; however, the Lot's minimum Driveway length shall be twenty (20) feet, as measured from the Right-of-way line."

**Section 4.**

**Article 10.7(G)(4) Processes & Permits; Development Plan Review; Application Documentation and Supporting Information; Landscape Plan** shall be amended as follows: "4. Landscape Plan: A Landscape Plan in accordance with Article 6.8 Landscaping Standards, shall be required as part of any Development Plan. Landscape Plans for Overall Development Plans shall generally detail perimeter areas, Buffer Yards, common areas, entryways,

Street Trees, and any other Open Space as deemed appropriate by the Plan Commission or Director. Landscape Plans for a Detailed Development Plan shall generally be site or Lot specific showing compliance with Parking Area areas, Buffer Yards, Street Trees, and on-site or foundation requirements.

**Section 5.** **Article 6.1(H) Accessory Use and Building Standards; Screening of Receptacles and Loading Areas** shall be amended as follows:

- A. **Article 6.1(H)(3)** shall be amended as follows: “3. Screening methods shall include a solid enclosure on all sides not less than six (6) feet in height above grade or two (2) feet above the receptacle, whichever is greater. The solid enclosure shall be a Masonry Material that matches or complements the Principal Building.”
- B. **Article 6.1(H)(6)** shall be amended as follows: “6. ~~Man doors which do not include swinging, moveable doors are encouraged to provide~~ Enclosures shall have separate pedestrian access openings that are configured to conceal the dumpster from view for daily access to dumpster for waste disposal. See Pedestrian access openings shall be substantially similar to those illustrated in FIGURE 6.1(3): DUMPSTER MAN-DOORS.”

**Section 6.** **Article 6.8(H)(2) Landscaping Standards; General Screening Standards; Dumpster and Loading Areas** shall be amended as follows:

2. Dumpster Service and Loading Areas: ~~Dumpster enclosures, trash pads,~~ Loading areas, loading docks, service areas, and maintenance areas shall be screened from residential uses and Rights-of-way. Screening shall be achieved by using either: (i) a six (6) feet high, completely opaque fence or wall; (ii) a six (6) feet high berm; (iii) a six (6) feet high screen of evergreen trees planted nine (9) feet on center in a double staggered row; or (iv) a combination of the aforementioned that accomplishes the same effect. See also *Article 6.1 Accessory Use and Building Standards* regarding dumpster enclosures.

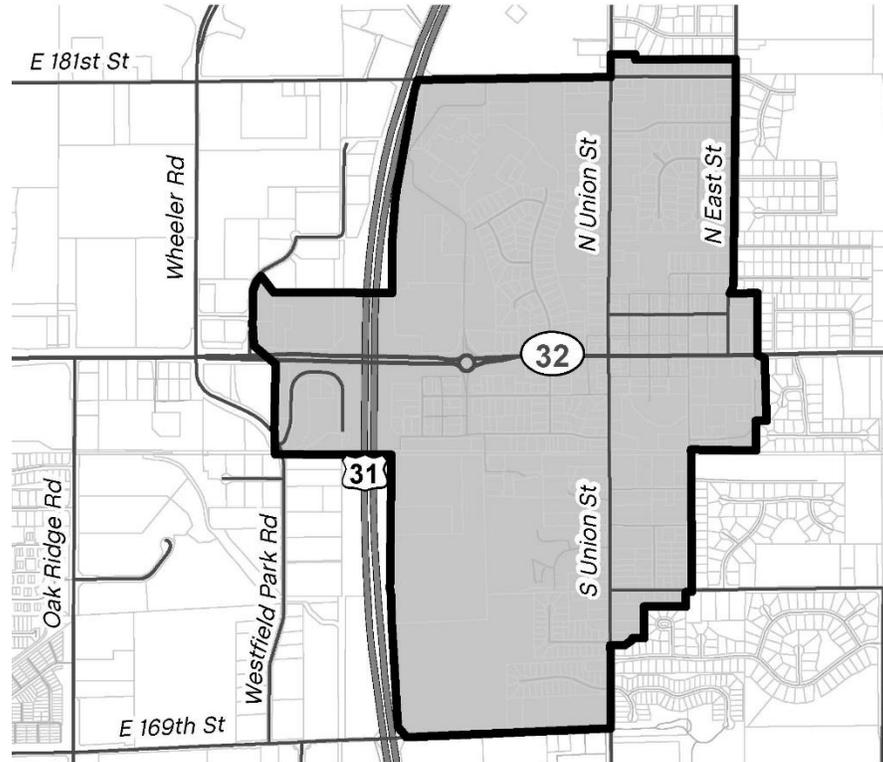
**Section 7.** **Article 6.3(F)(11)(c) Architectural Standards; Business Districts; Gasoline Service Station Canopies; Roof Design** shall be amended as follows:

- c. Roof Design: A canopy shall include a pitched or sloped roof ~~design~~ between 5:12 and 10:12, and with a minimum roof height above the canopy fascia of two and one half (2.5) times the width of the canopy fascia.

**Section 8. Article 9.4 Nonconforming Regulations; Nonconforming Lots of Record** shall be amended as follows:

- B.** Add a Section (B) as follows: “A Legal Nonconforming Lot within the geographic area identified in FIGURE 9.4(1): DOWNTOWN AREA may be: (i) used as permitted by the Zoning District in which the Lot is located; and (ii) built upon, only if the Lot and improvements otherwise comply with all other standards of this Ordinance.”

FIGURE 9.4(1): DOWNTOWN AREA



- C.** Amend Section (B), which shall be renumbered as Section (C) as follows: “A Legal Nonconforming Lot not within the geographic area identified in FIGURE 9.4(1): DOWNTOWN AREA may be: (i) used as permitted by the Zoning District in which the Lot is located; and (ii) built upon, only if the Lot and improvements otherwise comply with all other standards of this Ordinance, provided that:

1. The Property Owner of said parcel does not own, in whole or in part, sufficient adjacent land to enable the parcel to conform to the dimensional and acreage requirements of this Ordinance;
2. The Lot Width is no less than one hundred (100) feet; and
3. The Lot Area is no less than one (1) acre.”

**Section 9.** This Ordinance shall be in full force and effect in accordance with Indiana law, upon the passage of any applicable waiting periods, all as provided by the laws of the State of Indiana. All ordinances or parts thereof that are in conflict herewith are hereby ordered repealed. All acts undertaken to in creation of this Ordinance are hereby ratified.

**ALL OF WHICH IS ORDAINED THIS 26<sup>TH</sup> DAY OF MAY, 2015.**

**WESTFIELD CITY COUNCIL**

**Voting For**

**Voting Against**

**Abstain**

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Jim Ake

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Jim Ake

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Steven Hoover

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ATTEST:

\_\_\_\_\_  
Cindy Gossard, Clerk Treasurer

I hereby certify that ORDINANCE 15-12 was delivered to the Mayor of Westfield

on the \_\_\_\_\_ day of \_\_\_\_\_, 2015, at \_\_\_\_\_ m.

\_\_\_\_\_  
Cindy Gossard, Clerk-Treasurer

I hereby APPROVE ORDINANCE 15-12

this \_\_\_\_\_ day of \_\_\_\_\_, 2015.

\_\_\_\_\_  
J. Andrew Cook, Mayor

I hereby VETO ORDINANCE 15-12

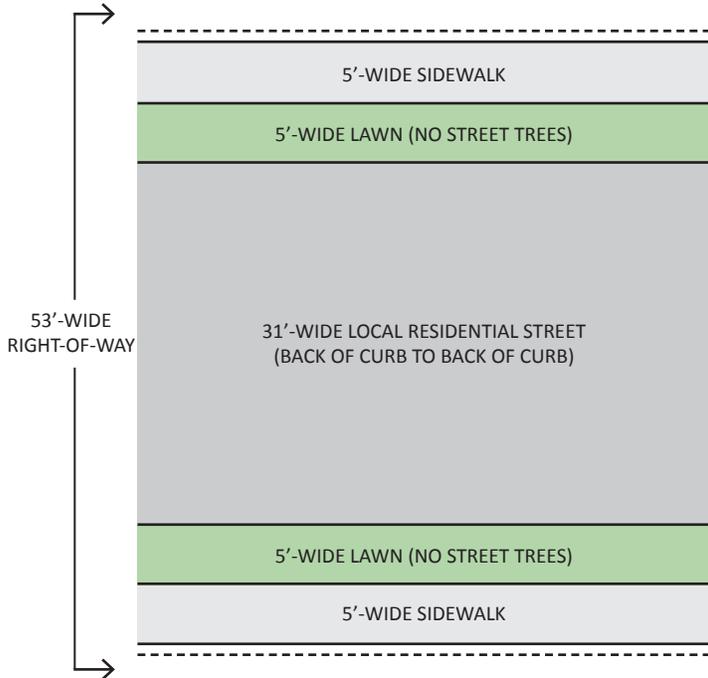
this \_\_\_\_\_ day of \_\_\_\_\_, 2015.

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J. Andrew Cook, Mayor

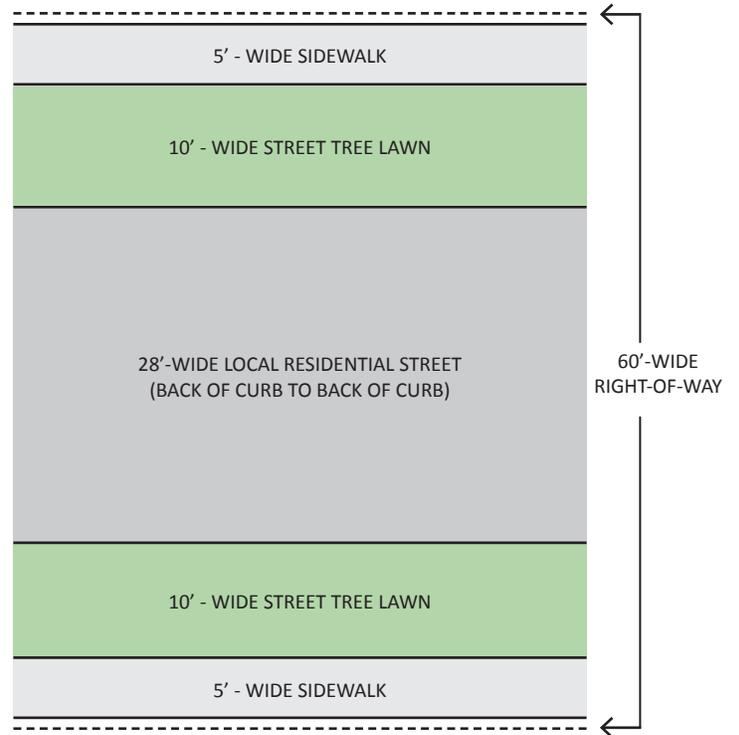
# STREET TREE EXHIBIT

*\*Developers had the option of which cross-section to build; however, in most instances, developers opted to construct the narrower right-of-way without street trees in the r/w (street trees are then placed in front yard of adjacent lot).*

## PREVIOUS CROSS-SECTION WITHOUT STREET TREES IN R/W

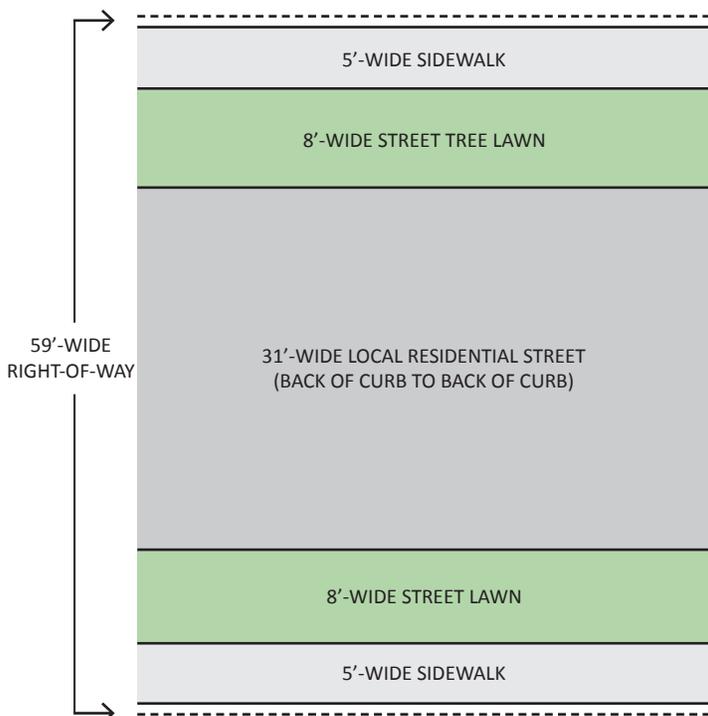


## PREVIOUS CROSS-SECTION WITH STREET TREES IN R/W



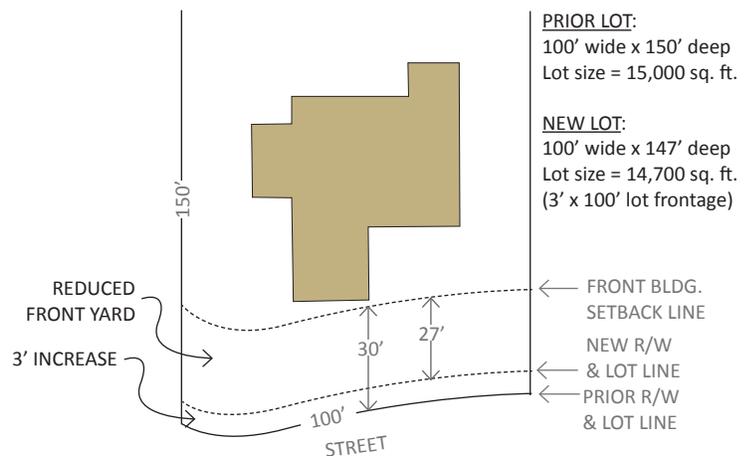
## CURRENT, REVISED CROSS-SECTION WITH STREET TREES IN R/W

*\*The revised cross-section is intended to balance the City's desire to locate street trees between the curb and sidewalk while accommodating the need to minimize the r/w width and impact on the front yard setback and size of abutting lots.*



## EXAMPLE IMPACT ON LOT (TYPICAL SF2 LOT)

*The proposed amendment accommodates the increased right-of-way width by allowing the existing required front yard building setback line to be maintained, and allowing the required lot size to be proportionately decreased.*





H. **Screening of Receptacles and Loading Areas:** These standards shall apply to all garbage containers, trash receptacles, pallet storage areas, trash compactors, recycling areas and other similar facilities in all Zoning Districts; however, these standards shall not apply to Single-family Dwellings:

1. Garbage containers, trash receptacles, pallet storage areas, trash compactors, recycling areas, loading areas and other similar facilities shall be completely and permanently screened from view of Rights-of-way and where possible, adjoining properties.
2. Enclosures shall not be located in an Established Front Yard or in any required Side or Rear Yard.
3. Screening methods shall include a solid enclosure on all sides not less than six (6) feet in height above grade or two (2) feet above the receptacle, whichever is greater.
4. Enclosures shall be constructed of a Masonry Material that matches or complements the Principal Building, as illustrated in FIGURE 6.1(2): DUMPSTER ENCLOSURES.

FIGURE 6.1(2): DUMPSTER ENCLOSURES



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5. Enclosures shall be equipped with opaque gates, as illustrated in FIGURE 6.1(2): DUMPSTER ENCLOSURES, that shall not be oriented towards residential properties or the Right-of-way, where possible.
6. Man-doors which do not include swinging, moveable doors are encouraged to provide daily access to dumpsters for waste disposal. See FIGURE 6.1(3): DUMPSTER MAN-DOORS.
7. Enclosures, which include swinging, moveable doors, shall be kept closed at all times when said doors are not in active use.
8. Landscaping shall be provided around enclosures in accordance with [Article 6.8 Landscaping Standards](#).

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FIGURE 6.1(3): DUMPSTER MAN-DOORS



I. **Agriculture-Related Accessory Buildings and Uses:**

1. **Regulated as Principal Buildings:** Accessory Buildings for the following uses shall be exempt from Sections (B)(2) General Standards, (D) Building Location, and (F) Maximum Accessory Building Height of this Article: Agricultural Uses, Agritourism Uses, Equestrian Facilities, Private Stables, and Nurseries. Rather, Accessory Buildings for these uses shall meet the maximum Building Height and minimum Building Setback Line standards of the underlying Zoning District, except as otherwise set forth below. See also *Article 6.4 Building Standards*.
2. **Stables:** In addition to the applicable standards of this Article and those of the applicable Zoning District set forth in *CHAPTER 4: ZONING DISTRICTS*, the following shall apply to Stables:
  - a. **Minimum Side and Rear Yard Building Setback Line:** 150 feet; however, there shall also be a Building Separation of two hundred (200) feet from an existing Dwelling Unit on an adjacent Lot (at the time of installation of the Stable). If the abutting Property Owner executes and records a notarized consent to a reduced setback, then the Building Setback Line may be reduced along that shared Lot Line, but in no instance may the setback be less than thirty (30) feet.

J. **Home Businesses:** See *Article 6.7 Home Business Standards*.

K. **Outside Storage and Display:** See *Article 6.12 Outside Storage and Display*.

L. **Outdoor Cafe and Eating Areas:** See *Article 6.13 Outdoor Café and Eating Areas*.

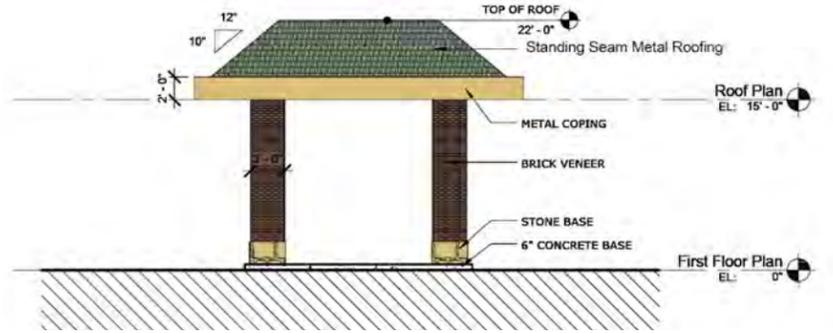
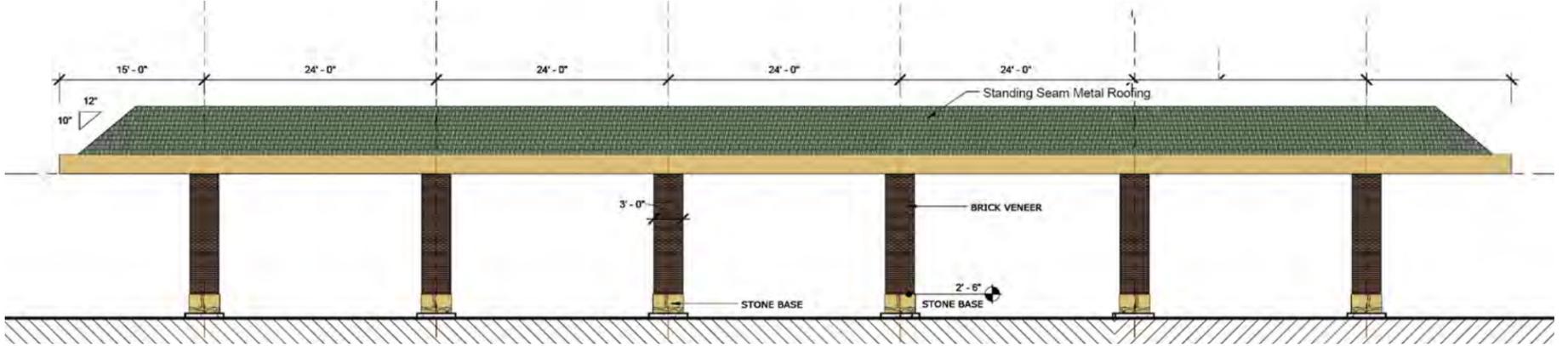
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# GASOLINE SERVICE STATION CANOPY EXHIBIT

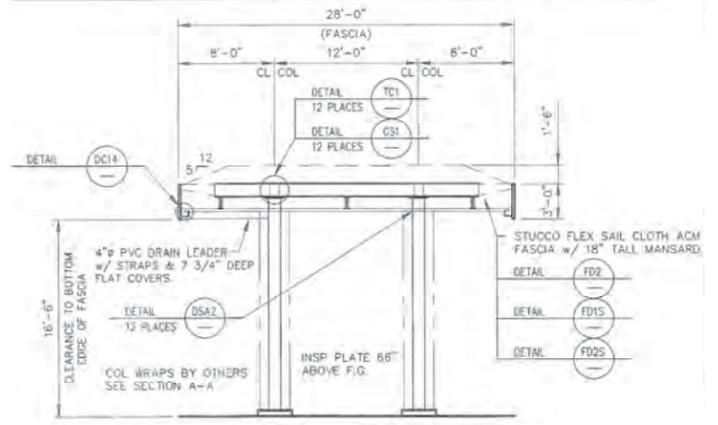
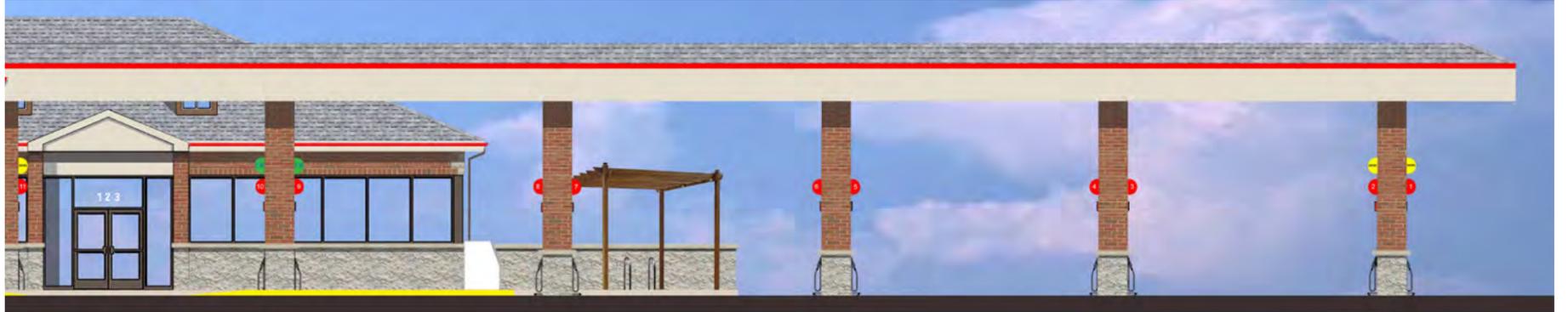
## RICKERS (BRIDGEWATER & MONON MARKETPLACE)

FASCIA = 24" • ROOF = 60" • RATIO = 2.5



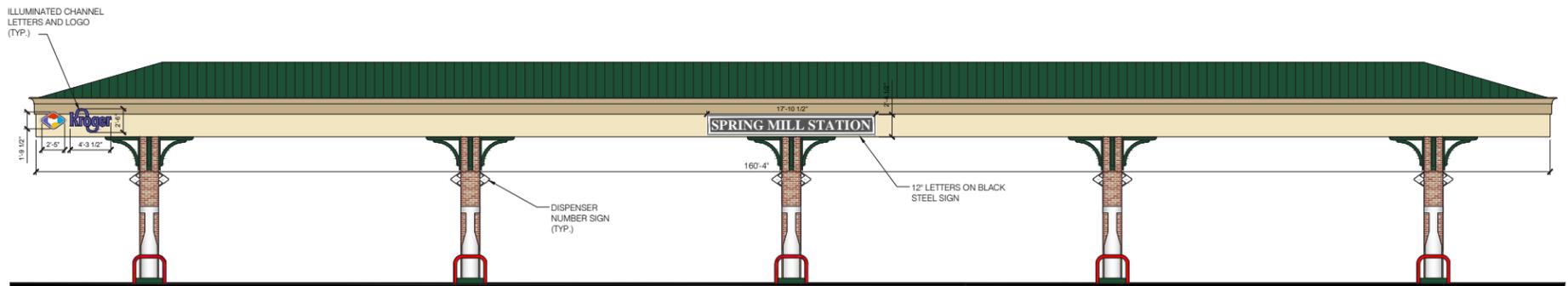
## SPEEDWAY (OAK POINTE PUD)

FASCIA = 36" • ROOF = 18" • RATIO = 0.5



## KROGER FUEL STATION (SPRINGMILL STATION)

FASCIA (INCLUDING CORNICHE TREATMENT) = 50" • ROOF = 45" • RATIO = 0.9



1 FRONT ELEVATION  
SCALE: NTS



4 LEFT SIDE ELEVATION  
SCALE: NTS

**WESTFIELD-WASHINGTON TOWNSHIP ADVISORY PLAN COMMISSION  
CERTIFICATION**

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The Westfield-Washington Township Advisory Plan Commission held a public hearing on Monday, May 18, 2015, to consider an amendment to the Westfield-Washington Township Unified Development Ordinance. Notice of the public hearing was advertised and noticed and presented to the Advisory Plan Commission. Notice was shown to have been published in a newspaper of general circulation in Hamilton County, Indiana. The petition is as follows:

Docket No.	1506-ZOA-01
Ordinance No.	15-12
Petitioner	City of Westfield
Description	Petitioner requests various text amendments to the Unified Development Ordinance generally pertaining to Article 6.1(H) Dumpster Enclosures; Article 6.8(J) Street Trees; Article 6.3(F)(11) Architectural Standards for Gasoline Service Station Canopies; and Article 9.4 Nonconforming Regulations.

On May 18, 2015, a motion was made and passed to send a favorable recommendation to the City Council regarding this petition (Vote: 7 in favor, 0 opposed).

The above-mentioned proposal and the Advisory Plan Commission's recommendation thereof are hereby certified.

  
\_\_\_\_\_  
Matthew S. Skelton, Secretary

May 19, 2015  
\_\_\_\_\_  
Date