WESTFIELD-WASHINGTON TOWNSHIP APPLICATION FORM

VARIANCE APPLICATION

RECEIVED

OCT 30 2015

OFFICE USE ONLY

DOCKET #: 1512-VS-17 FILING DATE: _____

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

PRE-FILING CONFERENCE

PRE-FILING CONFERENCE WITH: PAMELA HOWARD (STAFF NAME) DATE: 10.29.2015

PRIOR OR RELATED DOCKET NUMBERS

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

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

APPLICANT INFORMATION

APPLICANT'S NAME: HUNTINGTON BANK TELEPHONE: _____

ADDRESS: 14921 N MERIDIAN STREET EMAIL: TRACEY@ETD.WEBSITE

PROPERTY OWNER'S NAME: BENDMEL LLC TELEPHONE: _____

ADDRESS: 222 GRAND AVENUE ENGLEWOOD NJ 07631 EMAIL: _____

REPRESENTATIVE'S NAME: TRACEY DIEHL TELEPHONE: 614.828.8215

COMPANY: EXPEDITE THE DIEHL EMAIL: TRACEY@ETD.WEBSITE

ADDRESS: 6529 HEMMINGFORD DRIVE CANAL WINCHESTER OH 43110

PROPERTY AND PROJECT INFORMATION

ADDRESS OR PROPERTY LOCATION: 14291 THATCHER LANE

COUNTY PARCEL ID #(S): 09-90-20-00-00-001.230

EXISTING ZONING DISTRICT(S): SB-PD EXISTING LAND USE(S): VACANT BUILDING

VARIANCE REQUEST

☐ VARIANCE OF LAND USE CODE CITATION: _____

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

FINDINGS OF FACT: (PLEASE SEE ATTACHED)

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

variance to sign standards request to allow a total for all signs, wall and ground can not exceed 150 sq. ft. Wall signs proposed will not exceed 110 sq. ft. in total sign area. This request is to allow one wall sign on the north elevation that is 38.4 sq. ft. one wall sign on the south elevation that is 38.4 sq. ft. and one wall sign on the west elevation facing US 31 that is over the main entrance and measures 29.4 sq. ft.

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/Representive (signature) | Applicant/Representative (printed): Therese Diehl

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

Witness my hand and Notarial Seal this 29 *day of* OCTOBER, *20*15

State of OHIO, County of FRANKLIN, SS:

NOTARIAL SEAL STATE OF OHIO

William J Snyder
Notary Public, State of Ohio
My Commission Expires 01-26-18

Notary Public Signature

Notary Public (printed): William J. Snyder

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)* | 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 ____ day of _____, 20____.

State of _____, County of _____, SS:

Notary Public Signature

Notary Public (printed)

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

FINDINGS OF FACT (VARIANCE OF DEVELOPMENT STANDARD)

APPLICANT: HUNTINGTON BANK DOCKET #: _____

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

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

The sign request is necessary to maintain visibility on IN-31 and Thatcher Lane for motorist safety to locate the bank. This is for the overall welfare and safety of the community, not having a sign on this frontage can create a hazard and confusion for motorists traveling from out of town that are not familiar with the area. The approval will not be injurious to the public health, safety, morals and welfare, however not approving it may cause vehicular hazards. Signs are an essential part of helping persons to locate their destination safely.

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

The signs proposed are consistent with the types of signs the zoning ordinance allows. The signs proposed will not have an adverse effect on adjacent properties because signs of this type exist in this area. The signs proposed will not have a negative impact on the adjacent property because this is a commercial shopping area with signs of this nature in place.

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

The strict application of the terms of the zoning ordinance would result in motorists not being able to readily identify the bank location from IN 31 when approaching and posted speeds. When motorists can't identify a location in a timely manner it becomes a vehicular hazard. Signs prevent vehicular hazards. Vehicular hazards cause traffic accidents that create a financial burden for the city infrastructure and emergency services. Signs eliminate confusion of location. Additionally, the property needs to remain financially viable for the bank to operate successfully in the city, other banks within the city have wall signs and ground signs.

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
- ■ Legal Description
- ■ Draft Public Notice
- ■ Property Owner Consent
- ■ Site Plan (to scale)
- ■ Statement of Intent
- ■ Filing Fee Check (made out to "City of Westfield")
- ■ Copy of Property Deed
- ■ List of Adjoining Property Owners (as provided by County)
- ■ ~~TAC Delivery Affidavit (if TAC is determined to be necessary)~~
- ■ Vicinity Map (including property within 500 feet)
- ■ 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.

WESTFIELD-WASHINGTON TOWNSHIP APPLICATION FORM

VARIANCE APPLICATION

OFFICE USE ONLY	DOCKET #: 1512-VS-18	FILING DATE: _____
	FILING FEE: $_____ FEE PLUS $ _____ PER ADDITIONAL VARIANCE (@ __) = $_____	

PRE-FILING CONFERENCE

PRE-FILING CONFERENCE WITH: PAMELA HOWARD (STAFF NAME) DATE: 10/29/2015

PRIOR OR RELATED DOCKET NUMBERS

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

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

APPLICANT INFORMATION

APPLICANT'S NAME: HUNTINGTON BANK TELEPHONE: _____

ADDRESS: 14921 N MERIDIAN STREET EMAIL: TRACEY@ETD.WEBSITE

PROPERTY OWNER'S NAME: BENDMEL LLC TELEPHONE: _____

ADDRESS: 222 GRAND AVENUE ENGLEWOOD NJ 07631 EMAIL: _____

REPRESENTATIVE'S NAME: TRACEY DIEHL TELEPHONE: 614.828.8215

COMPANY: EXPEDITE THE DIEHL EMAIL: TRACEY@ETD.WEBSITE

ADDRESS: 6529 HEMMINGFORD DRIVE CANAL WINCHESTER OH 43110

PROPERTY AND PROJECT INFORMATION

ADDRESS OR PROPERTY LOCATION: 14291 THATCHER LANE

COUNTY PARCEL ID #(S): 09-90-20-00-00-001.230

EXISTING ZONING DISTRICT(S): SB-PD EXISTING LAND USE(S): VACANT BUILDING

VARIANCE REQUEST

☐ VARIANCE OF LAND USE CODE CITATION: _____

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

FINDINGS OF FACT: (PLEASE SEE ATTACHED)

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

variance to sign standards request to allow a monument sign on this outparcel - total for all signs, wall and ground can not exceed 150 sq. ft. Monument sign proposed will be 6'6" in overall height placed on the Thatcher Lane frontage to comply with 5' setback requirement. Overall proposed monument sign is 42 sq. ft. with a 3'6" x 12' sign face.

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.

Therese Diehl

Applicant/Representive (signature) Applicant/Representative (printed)

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

Witness my hand and Notarial Seal this 29 *day of* OCTOBER, *20*15.

State of OHIO, County of Franklin, SS:

NOTARIAL SEAL STATE OF OHIO

William J Snyder
Notary Public, State of Ohio
My Commission Expires 01-26-18

Notary Public Signature

William J. Snyder

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)* 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 ____ day of _____, 20____.

State of _____, County of _____, SS:

Notary Public Signature

Notary Public (printed)

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

FINDINGS OF FACT (VARIANCE OF DEVELOPMENT STANDARD)

APPLICANT: HUNTINGTON BANK DOCKET #: _____

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

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

The sign request is necessary to maintain visibility on IN-31 and Thatcher Lane for motorist safety to locate the bank. This is for the overall welfare and safety of the community, not having a sign on this frontage can create a hazard and confusion for motorists traveling from out of town that are not familiar with the area. The approval will not be injurious to the public health, safety, morals and welfare, however not approving it may cause vehicular hazards. Signs are an essential part of helping persons to locate their destination safely.

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

The signs proposed are consistent with the types of signs the zoning ordinance allows. The signs proposed will not have an adverse effect on adjacent properties because signs of this type exist in this area. The signs proposed will not have a negative impact on the adjacent property because this is a commercial shopping area with signs of this nature in place.

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

The strict application of the terms of the zoning ordinance would result in motorists not being able to readily identify the bank location from IN 31 when approaching and posted speeds. When motorists can't identify a location in a timely manner it becomes a vehicular hazard. Signs prevent vehicular hazards. Vehicular hazards cause traffic accidents that create a financial burden for the city infrastructure and emergency services. Signs eliminate confusion of location. Additionally, the property needs to remain financially viable for the bank to operate successfully in the city, other banks within the city have wall signs and ground signs.

WESTFIELD-WASHINGTON TOWNSHIP APPLICATION FORM

VARIANCE APPLICATION

OFFICE USE ONLY	DOCKET #: 1512-VS-19	FILING DATE: _____
	FILING FEE: $_____ FEE PLUS $ _____ PER ADDITIONAL VARIANCE (@ ___) = $_____	

PRE-FILING CONFERENCE

PRE-FILING CONFERENCE WITH: PAMELA HOWARD (STAFF NAME) DATE: 10.29.2015

PRIOR OR RELATED DOCKET NUMBERS

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

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

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PROPERTY OWNER'S NAME: BENDMEL LLC TELEPHONE: _____

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REPRESENTATIVE'S NAME: TRACEY DIEHL TELEPHONE: 614.828.8215

COMPANY: EXPEDITE THE DIEHL EMAIL: TRACEY@ETD.WEBSITE

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ADDRESS OR PROPERTY LOCATION: 14291 THATCHER LANE

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EXISTING ZONING DISTRICT(S): SB-PD EXISTING LAND USE(S): VACANT BUILDING

VARIANCE REQUEST

☐ VARIANCE OF LAND USE CODE CITATION: _____

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

FINDINGS OF FACT: (PLEASE SEE ATTACHED)

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

Variance to sign standards request to allow for signs that are not defined by the code on the drive thru kiosks. The proposed architectural element on the kiosks is the Huntington Bank logo without any wording. This logo is 36" and geometrically circular in form.

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/Representive (signature)

Therese Diehl
Applicant/Representative (printed)

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

Witness my hand and Notarial Seal this 29 *day of* OCTOBER, *20* 15.

State of Ohio, County of Franklin SS:

NOTARIAL SEAL
STATE OF OHIO

William J Snyder
Notary Public, State of Ohio
My Commission Expires 01-26-18

Notary Public Signature

William J. Snyder
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)*

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 ____ *day of* _____, *20*____.

State of _____, County of _____, SS:

Notary Public Signature

Notary Public (printed)

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

FINDINGS OF FACT (VARIANCE OF DEVELOPMENT STANDARD)

APPLICANT: HUNTINGTON BANK DOCKET #: _____

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

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

The signs proposed are consistent with the types of signs the zoning ordinance allows. The signs proposed will not have an adverse effect on adjacent properties because signs of this type exist in this area. The signs proposed will not have a negative impact on the adjacent property because this is a commercial shopping area with signs of this nature in place.

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

The strict application of the terms of the zoning ordinance would result in motorists not being able to readily identify the bank location from IN 31 when approaching and posted speeds. When motorists can't identify a location in a timely manner it becomes a vehicular hazard. Signs prevent vehicular hazards. Vehicular hazards cause traffic accidents that create a financial burden for the city infrastructure and emergency services. Signs eliminate confusion of location. Additionally, the property needs to remain financially viable for the bank to operate successfully in the city, other banks within the city have wall signs and ground signs.

AFFIDAVIT OF PERMIT AUTHORIZATION

This affidavit certifies that the party listed, who is not a lessee, licensed architect, engineer, or contractor, has been granted authorization to obtain a permit(s) on behalf of a property owner. It must be filled out completely by the property owner if another party is submitting an application(s) on the owner's behalf.

Michael Schmidt - Member & Manager

I, BenOmel, LLC "owner of the property listed below certify that I have granted, Philadelphia Signs and their permit expeditor Expedite The Diehl, my duly authorized agent, permission to obtain the sign permits, variances and related documents necessary for the construction (or installation) of signs at the following address:

14921 N. Meridian St., Carmel, IN 46033

Address of permit location

I hereby approved the signs as submitted and certify that I understand that I am authorizing them to apply for necessary permit, variances and related documents. This is limited to what is necessary for sign installation projects to be completed.

Signature of Property Owner

Michael Schmidt
Member & Manager
BenOmel, LLC

10/27/15

Date

Notary

State of NEW JERSEY

City/ County of BERGEN

I, Meganne Gudanowski Notary Public in and for the aforesaid State hereby certify that Michael Schmidt appeared before me in the State and City/County aforesaid and executed this affidavit on this 10/27 day of "20 15.

Notary Public

My Commission Expires the 16th day of May, 2018.

Date Month year

Seal

MEGANNE GUDANOWSKI
NOTARY PUBLIC OF NEW JERSEY
ID # 2373706
My Commission Expires 5/16/2018

2014024180 AMEN $19.00
06/23/2014 11:54:38AM 4 PGS
Mary L. Clark
Hamilton County Recorder IN
Recorded as Presented

After recording return to:
Village Park Plaza, LLC
225 W. Washington Street
Indianapolis, Indiana 46204
Attn: Dana S. Grimes, Esq.

SECOND AMENDMENT TO COVENANTS, CONDITIONS AND RESTRICTIONS AGREEMENT

THIS SECOND AMENDMENT TO COVENANTS, CONDITIONS AND RESTRICTIONS AGREEMENT (the "Amendment") is made as of the 17 day of ~~May~~ June, 2014, by VILLAGE PARK PLAZA, LLC, a Delaware limited liability company, ultimate successor in interest to Village Developers Limited Partnership, an Indiana limited partnership ("Developer"), and BENDMEL LLC, ultimate successor in interest to Mario's Real Estate Partners 1, a partnership ("Owner").

RECITALS:

WHEREAS, Developer and Owner's predecessors entered into that certain Covenants, Conditions and Restrictions Agreement dated November 19, 1993 and recorded in the office of the Recorder of Hamilton County, Indiana as Instrument No. 9358812, as amended by that certain Amendment to Covenants, Conditions and Restrictions Agreement dated May 22, 2001 ("2001 Amendment") and recorded in the office of the Recorder of Hamilton County, Indiana as Instrument No. 200100030091 (collectively, the "Covenants") which encumbered that certain real estate consisting of approximately 1.423 acres commonly known as Outlot LL/03 (the "Parcel") in the Village Park Plaza, Westfield, Hamilton County, Indiana (the "Center"); and

WHEREAS, Developer and Owner desire to amend certain provisions of the Covenants to reflect changes in use of the Parcel.

NOW, THEREFORE, for and in consideration of Ten Dollars ($10.00) in hand paid and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. **Amendment to Section 1. Improvements to the Parcel.** Section 1(b)(i) of the Covenants is amended to delete the third sentence, and in its place the following is substituted:

   Should Developer fail to approve or disapprove Owner's Plans and Specifications in writing within thirty (30) days after receipt of the Plans and Specifications, and the failure continues for an additional period of ten (10) calendar days following an additional notice to Developer, Developer shall be deemed to have approved the Plans and Specifications. Such additional notice shall include in bold and capitalized font, of at

WHEN RECORDED RETURN TO:
LAWYERS TITLE COMMERCIAL SERVICE
135 N. PENNSYLVANIA STREET
SUITE 710
INDIANAPOLIS, IN 46204
CASE NO. 14-00784-7

ast 14 points or larger: "A failure to respond to this notice within ten (10) calendar days shall constitute your approval of the Plans and Specifications."

2. **Amendment to Section 5. Uses**. Section 5(a) of the Covenants, as amended by the 2001 Amendment, is amended to delete the first and last paragraphs. The following paragraph shall be added as the first paragraph of Section 5(a):

Notwithstanding anything to the contrary contained in the Covenants, Developer and Owner agree that the Parcel may be used as a banking or retail financial institution with multi-lane drive-thrus.

3. **Amendment to Section 19. Notice**. Section 19 of the Covenants is amended to delete the addresses for Developer and Owner and substitute the following in lieu thereof:

If to Developer: Village Park Plaza, LLC
225 W. Washington Street
Indianapolis, Indiana 46204
Attn: Peripheral Development Department

With a copy to: Village Park Plaza, LLC
225 W. Washington Street
Indianapolis, Indiana 46204
Attn: Legal Development Department

If to Owner: Bendmel, LLC
222 Grand Avenue
Englewood, NJ 07631
Attn: Michael Schmidt

With a copy to: Seyfarth Shaw LLP
Two Seaport Lane, Suite 300
Boston, MA 02210
Attn: Catherine Burns, Esq.

4. **Definitions**. The capitalized terms used in this Amendment shall have the meanings set forth in the Covenants, unless otherwise defined herein.

5. **Recording**. This Amendment may be recorded, and the party requesting recording shall pay any and all recording fees.

[SIGNATURE PAGES FOLLOW]

Second Amendment to Covenants, Conditions, and Restrictions Agreement
Outlot LL/03 – Village Park Plaza
Developer's Signature Page

IN WITNESS WHEREOF, Developer has hereunto set its hand and seal as of the 17th day of June, 2014.

DEVELOPER:

VILLAGE PARK PLAZA, LLC, a Delaware limited liability company

By: VILLAGE DEVELOPERS LIMITED PARTNERSHIP, an Indiana limited partnership, its sole member

By: WASHINGTON PRIME GROUP, L.P., an Indiana limited partnership, its general partner

By: WASHINGTON PRIME GROUP INC., an Indiana corporation, its general partner

By: Robert P. Demchak

Printed: Robert P. Demchak

Title: Secretary and General Counsel

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

Before me, a Notary Public in and for said County and State, personally appeared Robert Demchak, to me personally known as the Secretary & General Counsel of Washington Prime Group Inc., an Indiana corporation, the general partner of Washington Prime Group, L.P., an Indiana limited partnership, the general partner of Village Developers Limited Partnership, an Indiana limited partnership, the sole member of Village Park Plaza, LLC, a Delaware limited liability company, who acknowledged his execution of the foregoing instrument for and on behalf of said limited liability company.

WITNESS my hand and notarial seal this 17th day of June, 2014.

Michelle Y. Watkins
Notary Public

NOTARY PUBLIC SEAL INDIANA

MICHELLE Y. WATKINS, Notary Public
My Commission Expires 01-11-2017
Resident of Johnson County

Second Amendment to Covenants, Conditions, and Restrictions Agreement
Outlot LL/03 – Village Park Plaza
Owner's Signature Page

IN WITNESS WHEREOF, Owner has hereunto set its hand and seal as of the 21st day of May, 2014.

OWNER:

BENDMEL LLC

Michael Schmidt, Managing Member

State of New Jersey)
) SS
County of Bergen)

The undersigned, a Notary Public in and for the County and State aforesaid, DOES HEREBY CERTIFY that Michael Schmidt, managing member of Bendmel, LLC personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person, and acknowledged that he signed and delivered the said instrument as his free and voluntary act for the uses and purposes therein set forth.

Given under my hand and official seal, this 21st day of May, 2014.

Commission expires May 16 20 18

NOTARY PUBLIC

This instrument was prepared by Village Park Plaza, LLC, 225 W. Washington Street, Indianapolis, Indiana 46204, Attn: Dana S. Grimes, Esq. 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.

Dana S. Grimes, Esq.

DULY ENTERED FOR TAXATION
Subject to final acceptance for transfer
24 day of May, 2001
Robin M Mills Auditor of Hamilton County
Parcel # 09-10-18-00-00-015.132

24.00
(6)

200100030090
Filed for Record in
HAMILTON COUNTY, INDIANA
MARY L CLARK
05-24-2001 00:54 am
GEN W DEED 24.00

GENERAL WARRANTY DEED
(Tax Parcel No. 09-10-18-00-00-015.132)

THIS INDENTURE WITNESSETH, That MERCANTILE NATIONAL BANK OF INDIANA, a corporation, as Trustee under the provisions of a certain Trust Agreement, dated July 22, 1994, and known as Trust Number 5965 ("Grantor"), GRANTS AND CONVEYS WITH GENERAL WARRANTY COVENANTS to WESTFIELD BISTRO, LLC, an Indiana limited liability company, for the sum of Ten Dollars ($10.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, certain real estate located in Hamilton County, Indiana, as more specifically described in the attached Exhibit A, incorporated herein by reference, subject only to those matters more specifically described on Exhibit B, which is attached hereto and incorporated herein by reference.

Grantor hereby certifies that there is no Indiana gross income tax due at this time as a result of this conveyance.

The undersigned persons executing this Deed on behalf of Grantor represent and certify that they are trustees of Grantor and have been fully empowered, by that certain Trust Agreement, dated July 22, 1994 and known as Trust Number 5965, to execute and deliver this Deed; that Grantor has full authority and capacity to convey the real estate described herein; and that all necessary action for the making of such conveyance has been taken and done.

IN WITNESS WHEREOF, Grantor has caused this General Warranty Deed to be executed this 22 day of May, 2001.

GRANTOR:

MERCANTILE NATIONAL BANK OF INDIANA, a corporation, as Trustee under the provisions of a certain Trust Agreement, dated July 22, 1994, and known as Trust Number 5965

By: SEE SIGNATURE PAGE ATTACHED
Printed: _____
Title: _____

STATE OF INDIANA)
) SS:
COUNTY OF _____)

Before me, a Notary Public in and for said County and State, personally appeared _____, by me known and by me known to be the _____ of Mercantile National Bank of Indiana, a corporation, as Trustee, under the provisions of a certain Trust Agreement, dated July 22, 1994, and known as Trust Number 5965, who, being first duly sworn upon his/her oath, has executed the foregoing General Warranty Deed for and on behalf of said corporation.

Witness my hand and Notarial Seal this ____ day of _____, 2001.

_____
Notary Public

_____
(Printed signature)

My Commission Expires: _____

My County of Residence: _____

THIS INSTRUMENT WAS PREPARED BY AND AFTER RECORDING RETURN TO: Elizabeth T. Young, Attorney at Law, Bose McKinney & Evans LLP, 135 North Pennsylvania, Suite 2700, Indianapolis, Indiana 46204.

SEND TAX BILLS TO: Levinson Restaurant Corporation, 1311 West 96th Street, Suite 205, Indianapolis, Indiana 46260.

C:\WINDOWS\TEMP\GENERAL WARRANTY DEED - WESTFIELD BISTRO_LEVINSON_MAR'OS (2).WPD

This GENERAL WARRANTY DEED is executed by the undersigned Trustee, not personally, but solely as Trustee under the terms of that certain agreement dated July 22, 1994, creating trust number 5965; and it is expressly understood and agreed by the parties hereto, anything herein to the contrary notwithstanding, that each and all of the covenants, undertakings, representations, agreements and liabilities, herein made are made and are intended, not as personal covenants, undertakings, representations, agreements and liabilities, of the Trustee, individually, or for the purpose of binding it personally, but this instrument is executed and delivered by the MERCANTILE NATIONAL BANK OF INDIANA, AS TRUSTEE, solely in the exercise of the powers conferred upon it as such Trustee under said agreement and no personal liability or personal responsibility is assumed by, nor shall at any time be asserted or enforced against MERCANTILE NATIONAL BANK OF INDIANA, on account hereof, or on account of any covenant, undertaking, representation or agreement herein, either expressed or implied, all such personal liability, if any, being expressly waived and released by the parties hereto or holder hereof, and by all persons claiming by or through or under said parties or holder hereof.

Nothing contained herein shall be construed as creating any liability upon MERCANTILE NATIONAL BANK OF INDIANA, personally under the provisions of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) or the Indiana Responsible Property Transfer Law (the "Act") as amended from time to time or any other federal, state or local law, rule or regulation. MERCANTILE NATIONAL BANK OF INDIANA, personally, is not a "Transferor or Transferee" under the Act and makes no representations concerning any possible environmental defects. In making any warranty herein, the Trustee is relying solely on information furnished to it by the beneficiaries and not of its own knowledge and specifically exculpates itself from any liabilities, responsibilities or damages as a result of including any warranty in this instrument.

Furthermore, the information contained in this instrument has been furnished to the undersigned by the beneficiary/beneficiaries under aforesaid Trust and the statements made therein are made solely in reliance thereon and no responsibility is assumed by the undersigned in its individual capacity for the truth or accuracy of the facts herein stated.

IN WITNESS WHEREOF, said MERCANTILE NATIONAL BANK OF INDIANA, has caused its name to be signed to these presents by an Assistant Vice President and Trust Officer and attested by its Assistant Vice President and Trust Officer the day and year first above written.

MERCANTILE NATIONAL BANK OF INDIANA, AS TRUSTEE
AFORESAID AND NOT PERSONALLY

By: Jacquelyn M. Kohl, Assistant Vice President
& Trust Officer

ATTEST:

Margaret M. Loitz, Assistant Vice President
and Trust Officer

STATE OF INDIANA , COUNTY OF LAKE) s.s.

Before me, a Notary Public in and for said County, in the State aforesaid, personally appeared before me, JACQUELYN M. KOHL, Assistant Vice President and Trust Officer, and MARGARET M. LOITZ, Assistant Vice President & Trust Officer, of MERCANTILE NATIONAL BANK OF INDIANA, a national banking association ,who acknowledged the execution of the foregoing instrument as the free and voluntary act of said national banking association, and as their free and voluntary act, on behalf of said national banking association, as Trustee.

Given under my hand and notarial seal this 21st day of May, 2001

Signed:

Janet L. Dremonas, Notary Public

JANET L. DREMONAS
MY COMMISSION EXPIRES
MAY 7, 2008
NOTARY SEAL
Lake County
NOTARY PUBLIC, STATE OF INDIANA

Exhibit B - Permitted Exceptions

1. Real estate taxes assessed for the year 2001 are a lien but are not yet due and payable.

2. Covenants, Conditions and Restrictions Agreement Outlot LL/03 of Village Park Plaza between Village Developers Limited Partnership, an Indiana Limited Partnership and Mario's Real Estate Partners 1, a partnership, dated November 19, 1993 and recorded November 30, 1993 as Instrument Number 9358812 in the Office of the Recorder of Hamilton County, Indiana. as amended on May 22, 2001 and recorded on May 23, 2001, in the Office of the Recorder of Hamilton County, Indiana. as Instrument Number 2001-30091

3. Permanent extinguishment of all rights and easements of ingress and egress to, from and across the limited access facility known as U.S.R. 31 to and from the land as set out in a deed to the State of Indiana recorded February 10, 1976 as Instrument No.12008 in Deed Record: 279 Page: 612.
"as noted on the survey" on the survey prepared by United Consulting Engineers & Architects under Job Number 01-806, dated April 13, 2001, last revised May 15, 2001.

4. Sanitary Sewer and Water Line Easement Agreement:
Dated: May 4, 1982
Recorded: May 6, 1982
Book: 330 Page: 512
Instrument No.: 33872
as shown on the survey prepared by United Consulting Engineers & Architects under Job Number 01-806, dated April 13, 2001, last revised May 15, 2001.

5. Terms and Provisions of a Reciprocal Utility and Access Easement Agreement by and between Village Developers Limited Partnership, an Indiana Limited Partnership and Westfield Properties Limited Partnership, an Indiana Limited Partnership dated May 4, 1990 and Recorded May 7, 1990 as Instrument Number 9010608 in the Office of the Recorder of Hamilton County, Indiana.
"as noted on the survey" on the survey prepared by United Consulting Engineers & Architects under Job Number 01-806, dated April 13, 2001, last revised May 15, 2001.

6. Easement in favor of: Village Developers Limited Partnership, an Indiana Limited Partnership
Type of easement: Drainage Easement
Dated: January 28, 1991
Recorded: February 8, 1991
Instrument No.: 9103145
Subject to the terms and conditions thereof.
"as shown on the survey prepared by United Consulting Engineers & Architects under Job Number 01-806, dated April 13, 2001, last revised May 15, 2001.

7. Sanitary Sewer and Water Line Easement Agreement:
Dated: February 27, 1991
Recorded: March 1, 1991
Instrument No.: 9104427
as shown on the survey prepared by United Consulting Engineers & Architects under Job Number 01-806, dated April 13, 2001, last revised May 15, 2001.

Exhibit B - Permitted Exceptions

8. Easement in favor of: Indiana Bell Telephone Company Incorporated
Type of easement: Telephone Easement
Dated: February 9, 1991
Recorded: March 1, 1991
Instrument No.: 9104428

as shown on the survey prepared by United Consulting Engineers & Architects under Job Number 01-806, dated April 13, 2001, last revised May 15, 2001.

9. Easement in favor of: PSI Energy, Inc., an Indiana corporation
Type of easement: Electric Easement
Dated: February 8, 1991
Recorded: March 1, 1991
Instrument No.: 9104429

as shown on the survey prepared by United Consulting Engineers & Architects under Job Number 01-806, dated April 13, 2001, last revised May 15, 2001.

10. Easement in favor of: Indiana Gas Company, Inc.
Type of easement: Natural Gas Easement
Dated: February 8, 1991
Recorded: March 1, 1991
Instrument No.: 9104430

as shown on the survey prepared by United Consulting Engineers & Architects under Job Number 01-806, dated April 13, 2001, last revised May 15, 2001.

Exhibit A

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

Commencing at the Northwest corner of said Southwest Quarter, thence North 89 degrees 19 minutes 32 seconds East (assumed bearing) along the North line thereof 418.69 feet to the prolongation Northerly of the East line of a 1.959 acre tract of land described in Warranty Deed recorded as Instrument No. 83-3497 in Deed Record 336, page 110 in the Office of the Recorder of Hamilton County, Indiana; thence South 00 degrees 00 minutes 00 seconds West along said prolongation and said line 304.49 feet to the Southeast corner thereof; thence South 90 degrees 00 minutes 00 seconds West along the South line of said tract 306.13 feet to the Southwest corner thereof, being also a point on the Easterly limited-access right-of-way line for U.S.R. 31, described in a Warranty Deed recorded as Instrument No. 12008 in Deed Record 279, page 612 in the Office of the Recorder of said County, said limited-access right-of-way line being a non-tangent curve concave Westerly, and said point being North 87 degrees 03 minutes 28 seconds East 11546.16 feet from the radius point of said curve; thence Southerly 400.93 feet along said curve to the POINT OF BEGINNING; thence North 90 degrees 00 minutes 00 seconds East 313.15 feet; thence South 00 degrees 01 minutes 41 seconds East 197.95 feet; thence South 89 degrees 43 minutes 12 seconds West 309.85 feet to said Easterly limited-access right-of-way; thence along said right-of-way line for the next two courses: (1) North 01 degrees 47 minutes 33 seconds West 61.92 feet to a point on a non-tangent curve concave Westerly, and said point being North 89 degrees 43 minutes 48 seconds East 11546.16 feet from the radius point of said curve; (2) Northerly 137.58 feet to the POINT OF BEGINNING: containing 1.423 acres

#25

ADJOINER

(NOTIFICATION LIST)

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

DATE TAKEN: 10/25/2015
TIME TAKEN: 9:53 PM

NAME OF PROPERTY OWNER: BENDMEL, LLC

NAME OF PETITIONER: TRACEY DIEHL

LEGAL DESCRIPTION OR PARCEL NUMBER OF PROPERTY:

09-10-18-00-00-015.132

ZONING AUTHORITY APPLYING TO

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

SIGNATURE OF APPLICANT: E-MAIL

DATE: 10/25/2015

PERSON TO CONTACT: TRACEY DIEHL

PHONE NUMBER: tracey@expeditethediehl.com

FOR OFFICE USE ONLY

EMPLOYEE INITIALS: mrc PAYMENT RECEIVED: _____ RECEIPT NUMBER: _____

E-MAIL WHEN COMPLETED: _____

HAMILTON COUNTY TRANSFER AND MAPPING
33 N. NINTH ST. • NOBLESVILLE, IN 46060
plats@hamiltoncounty.in.gov
P: 317.776.9624 F: 317.776.9682

HAMILTON COUNTY AUDITOR

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

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

DAWN COVERDALE, HAMILTON COUNTY AUDITOR

DATED: Michael R. Crussel 10/26/2015

SUBJECT PROPERTY:

09-10-18-00-00-015.132		**Subject**
Bendmel LLC		
222 GRAND AVE		
Englewood	NJ	07631

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

HAMILTON COUNTY NOTIFICATION LIST

PLEASE NOTIFY THE FOLLOWING PERSONS

09-09-13-00-00-012.012 **Neighbor**
Greyhound Court Plaza LLC
6070 Keystone N
Indianapolis IN 46220

09-09-13-00-00-012.025 **Neighbor**
5 Hs LLC
1610 E GREYHOUND PASS
Carmel IN 46032

09-09-13-00-00-012.026 **Neighbor**
Vca Real Property Acquisition
12401 Olympic Blvd
Los Angeles CA 90064

09-09-13-00-00-012.028 **Neighbor**
Greyhound Court Plaza LLC
6070 Keystone N
Indianapolis IN 46220

09-09-13-00-00-012.035 **Neighbor**
CAW Realty LLC
1542 E GREYHOUND PASS
Carmel IN 46032

09-09-13-00-00-012.125 **Neighbor**
Vacation Limited Partnership
14904 Greyhound Ct
Carmel IN 46032

09-10-18-00-00-015.102 **Neighbor**
Village Park Plaza LLC
225 W WASHINGTON PO BOX 7019
Indianapolis IN 46204 3435

09-10-18-00-00-015.112 **Neighbor**
Village Park Plaza LLC

PO Box 1498

Columbus OH 43216

09-10-18-00-00-015.122 **Neighbor**

Brucker, Douglas L.& Susan M

PO Box 460189

Houston TX 77056

09-10-18-00-00-015.202 **Neighbor**

Wal Mart Realty Company

P O Box 8050 MS 0555

Bentonville AR 72712 8050

09-10-18-00-01-001.000 **Neighbor**

MSI East Greyhound Carmel Grocery LLC

9800 Crosspoint Blvd

Indianapolis IN 46256

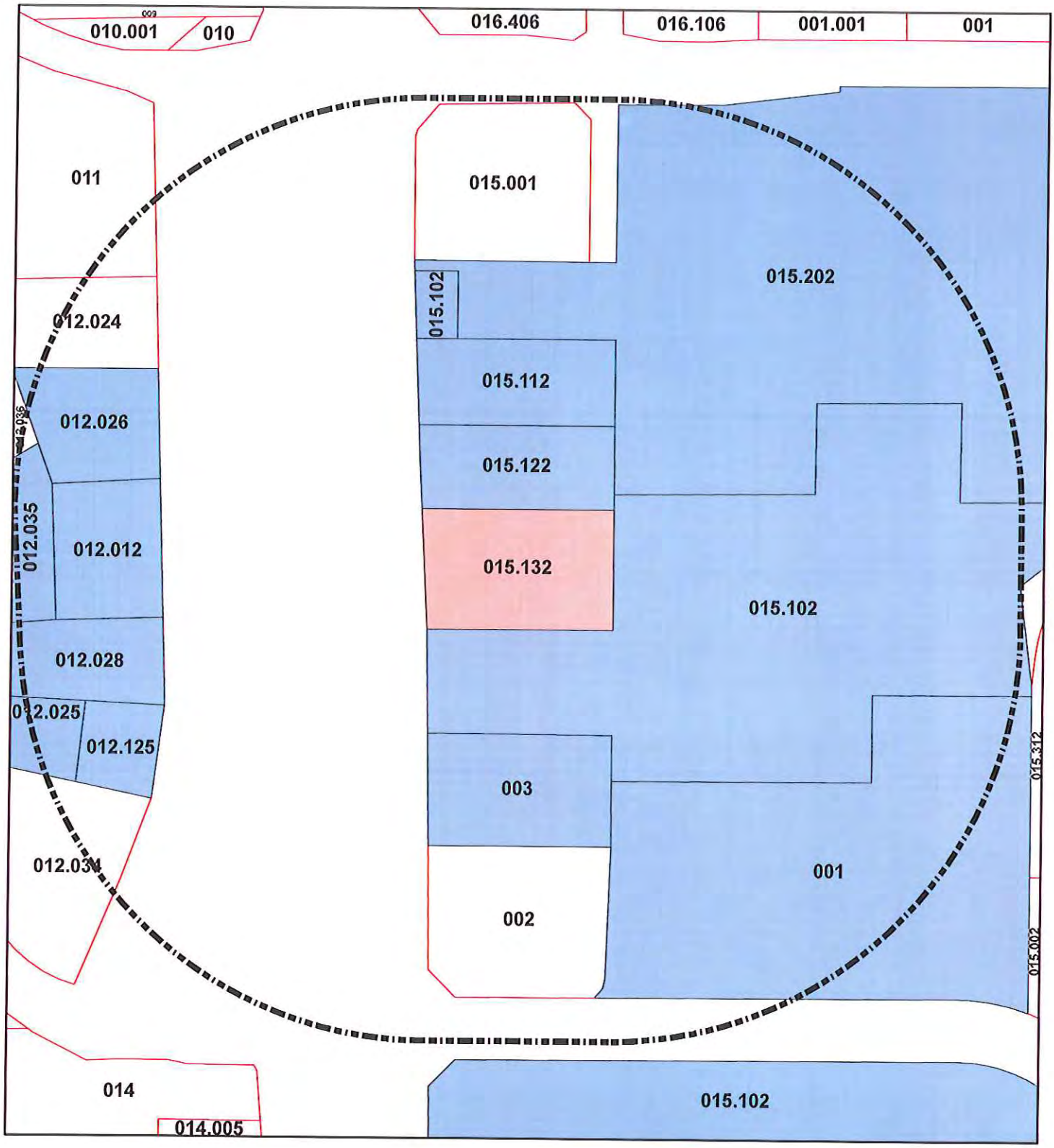
09-10-18-00-01-003.000 **Neighbor**

Mikes No 15 LLC

10251 Hague Rd

Indianapolis IN 46256

Adjoiner Notification Map



Legend

- Subject Parcel(s)
- Notification Parcel(s)
- Buffer
- 001 Parcel Number
- Parcel Boundary

N