PETITION NUMBER:	0810-VU-06
SUBJECT SITE ADDRESS:	304 W. Main Street
APPELLANT:	Thornberry Real Estate
REQUEST:	The Appellant is requesting a Variance of Use from the Westfield-Washington Zoning Ordinance (WC 16.04.030, E1) to allow a software company, a real-estate company, and a construction company in the SF-3 District.
CURRENT ZONING:	SF-3
CURRENT LAND USE:	Single-Family Residential
APPROXIMATE ACREAGE:	0.33 acre
RELATED CASE:	0810-VS-14 (Multiple Variances of Standard requests; *Pending*)
EXHIBITS:	1. Staff Report, 10/14/08
	2. Aerial Location Map, 10/14/08
	3. Property Card, 10/05/08
	4. TAC Comments, 09/23/08
	5. Appellant's Application and Plans, 09/16/08
STAFF REVIEWER:	KMT

PROCEDURAL

The appellant failed to meet the Board of Zoning Appeals rules by not posting the public notice sign on the property at least ten (10) days prior to the hearing date (BZA Rules of Procedure, Article X, 3). The other two (2) required forms of notice (the certified mailing to neighbors and the statutorily-required newspaper publishing) have been properly served. The BZA has the choice of suspending the rules for the public notice sign (by a unanimous vote) OR continuing the case for one (1) month to allow the appellant a chance to correct the error.

This item requires a public hearing.

PETITION HISTORY

The October 14, 2008 Board of Zoning Appeals meeting represents the first hearing of this petition before the Board. The Westfield Technical Advisory Committee reviewed this petition at the September 23, 2008 TAC meeting (see Exhibit 4 for comments).

PROPERTY HISTORY

There are no variances, special exceptions, subdivision plats, development plan, site plan, or rezoning cases for the subject property. There are no pending enforcement cases for the subject property.

ANALYSIS

This request is to allow three (3) specific types of office uses on the subject property: a software company, a real estate company, and a construction company.

The subject property is accessed by State Road 32 and is located in Downtown Westfield. The property is located adjacent to the Westfield-Washington School Administration Building to the west, an office to the east, and abuts a mixture of residential and businesses across SR 32 to the south. The property is currently improved with a paved driveway, a single-family residential structure, and a detached accessory structure. The submitted plans indicate that the existing structures will be demolished. The submitted plans propose a two-story office building, an attached garage, and a surface parking lot.

The Land Use Concept Map in Westfield-Washington Township Comprehensive Plan identifies the subject property to be within Downtown Westfield (p .23). The Comprehensive Plan identifies a need to revitalize Westfield's downtown. The Comprehensive Plan does not specifically address this area of Downtown for redevelopment possibilities, but it does identify office uses as appropriate in Downtown (p. 75). The proposed use would generally comply with the Comprehensive Plan.

The City has commissioned a public-private group, the Grand Junction Task Group, to prepare a master plan for Downtown Westfield. Grand Junction is currently in the process of drafting a plan. It is anticipated that a new Downtown Master Plan will be adopted in the coming months.

The Westfield Thoroughfare Plan classifies SR 32 as a Primary Arterial, which calls for 150 feet of right-of-way. The current right-of-way adjacent to the subject property is approximately 60 feet in width. It is unknown at this time how any potential future expansion or widening of SR 32 would occur.

TECHNICAL ADVISORY COMMITTEE

Staff has started sending variances of use, special exceptions, and other complex BZA cases to the Technical Advisory Committee for review and feedback, at the Director's discretion. The input from the various agencies on matters before the BZA will assist in staff's analysis and review of a project.

Comments from the September 23, 2008 TAC meeting are as follows:

- INDOT informed the applicant that this parcel could be impacted by the US 31 improvement project; however, because the plans for US 31 have not been finalized, the INDOT representative could not definitively speak to the amount of right-of-way that may be acquired from the subject property. It was noted that due to the subject property's proximity to the Westfield-Washington School Administration Building, right-of-way dedication could be minimal. INDOT did not express concern with the possible addition of traffic to SR 32 as a result of this project;
- Westfield Public Works Department provided a comment letter and did not express any concerns;

- Westfield Fire Department stated that the structure may be required to be sprinkled and did not express any additional concerns;
- Hamilton County Surveyor's Office provided a comment letter and informed the applicant that storm water management and detention may have to be provided for on-site improvements;
- Citizens Gas of Westfield informed the applicant that they serve the site and will work with them on issues regarding disconnecting the existing line for demolition and new connections for the new structure;
- Duke Energy discussed possible routing options for providing power to the site;
- Westfield Community Development requested a survey of the property to help delineate any potential right-of-way and potential easement issues.

If this variance and the associated variances of standard requests (0810-VS-14) are approved, then this project will be subject to the Development Plan Review process. Any technical issues associated with the development of this property will be addressed at that time.

CRITERIA FOR VARIANCE OF USE REQUEST

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

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

Finding: It is unlikely that allowing office uses on the subject property would be injurious to the public health, safety, morals and general welfare of the community. There were no public safety issues or concerns raised by the Technical Advisory Committee. The site and structure would be able to be served safely in the event of an emergency.

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

Finding: It is unlikely that the use and value of adjacent property would be affected in an adverse manner. The segment of SR 32 from US 31 to Union Street has been converting and redeveloping from residential uses to non-residential uses for several years. It is anticipated that more of the same will occur in the future as Downtown continues to revitalize and redevelop.

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

Finding: Recent variance history has shown that developing and redeveloping in Downtown

Westfield typically involves numerous variances to make a project viable. The age of the parcels in the downtown area, coupled with the current standards for development for those parcels, creates this situation. The current zoning ordinance does not easily accommodate development or redevelopment in Downtown.

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

Finding: Strictly applying the zoning ordinance would result in using the property for residential, institutional, or recreational uses. Strictly applying the zoning ordinance does not create an unnecessary hardship for the use of the subject property.

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

Finding: The Comprehensive Plan identifies the subject property to be within Downtown Westfield (p .23). It does not specifically address this area of Downtown for redevelopment possibilities, but it does identify office uses as appropriate in Downtown (p. 75). The proposed use would generally comply with the Comprehensive Plan.

ADDITIONAL COMMENTS
None.

RECOMMENDATIONS
Continue this request to allow the petitioner time to respond to items related to the Downtown Master Plan efforts.

If the Board sees fit to approve, approve with the applicable conditions listed below.

APPLICABLE CONDITIONS of APPROVAL

1. That the development plan review follow the requirements for a property in a business district (WC 16.04.165, D3); and
2. That the building materials requirements apply to all sides of the structure.

****

KMT

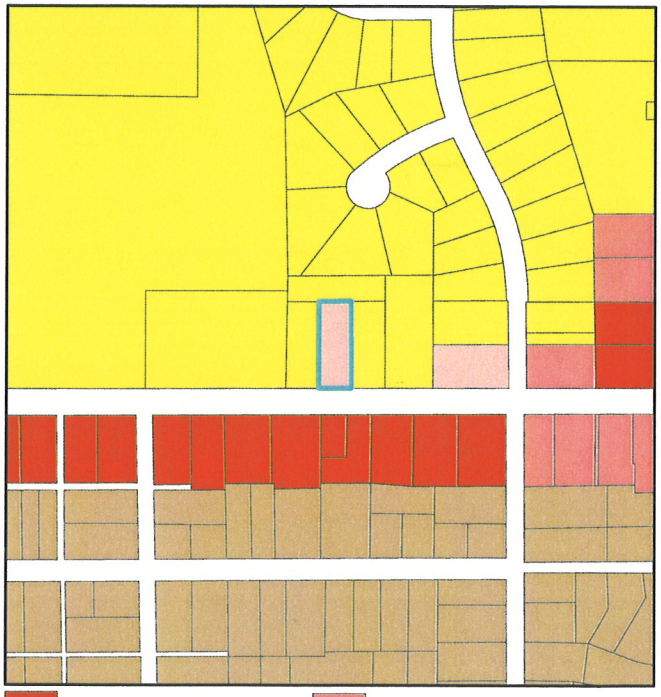
0810-VU-06
09-05-36-04-04-026.000
304 West Main Street
Exhibit 2

N
W E
S
Not To Scale

Aerial Location Map

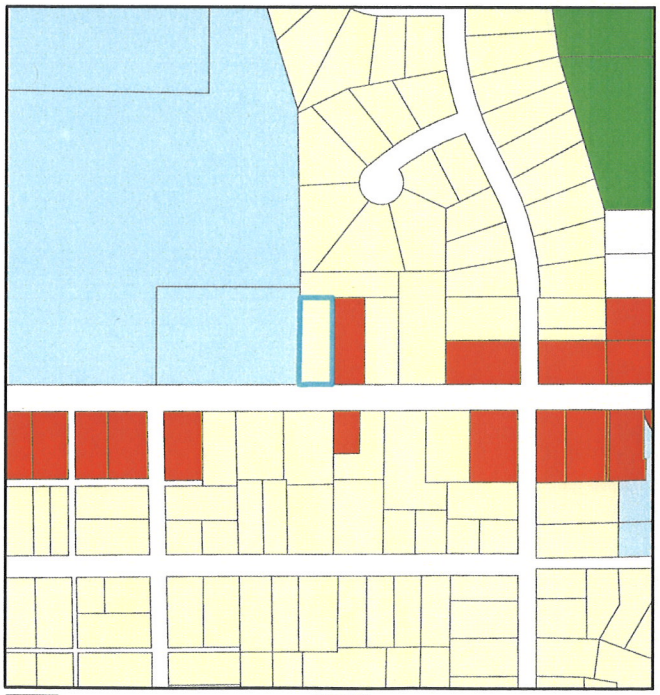
Site

Zoning Map



General Business
Multi Family 1
Local Business
Local Business Historic
Single Family 3

Existing Land Use Map



Commercial
Institutional
Recreational
Residential
Vacant

L:\West_GIS\Planning\Petitions\BZA\0810-VU-06.mxd (October 7, 2008)

EXHIBIT 3

co.HAMILTON.in.us

Official government site of Hamilton County, Indiana

Online Services

Property Card Report

1. report type: Reset
2. property search: new search
3. view reports: general parcel info. | spring tax statement | tax payments | property card | fall tax statement

Disclaimer:
This program allows you to view and print certain public records. **Each report reflects information as of a specific date**; so the information provided by different reports may not match. All information has been derived from public records that are constantly undergoing change and is not warranted for content or accuracy. It may not reflect the current information pertaining to the property of interest.

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Any, and all information contained on this web site report is the result of assessment data extracted on the most recent taxable year - **March 1, 2007**. Improvement characteristics may differ from those used to determine the total assessed value listed.

Summary Information - Parcel Number: 09-05-36-04-04-026.000

Property Data	
Parcel Location	304 Main St W,Westfield
Taxing Unit	Westfield
Legal Description	73.6 X 195.0 AUD 11/2
Section/Township/Range	S36 T19 R03
Subdivision Name	NULL
Lot and Block	Lot Block
Acres	0
Effective Frontage	74
Effective Depth	195
Property Class	One Family Dwelling Platted
Exterior Features and Out Buildings	
1 Attached Garage,	
1 Roof Extension Canopy, 2 Wood Deck,	

Property Owner as of April 30, 2007	
Thornberry Real Estate Inc	
Most Recent Valuation as of March 1, 2007	
Assessed Value: Land	23400
Assessed Value: Improvements	65100
Total Assessed Value:	88500

Building 1, Card ID R01

Physical Characteristics	
Story Height	1.0
Attic	none
Basement	none
Crawl	none
Year Built	1956
Floor Construction	
1.0 (first)	Sub and joists
Floor Finish	
1.0 (first)	Carpet, Carpet
Exterior Cover	
1.0 (first)	Wood siding
Interior Finish	
1.0 (first)	Drywall

Accomodations		
Finished Rooms	7	
Bedrooms	3	
Heating and Air Conditioning		
Primary Heat	YES	
Air Conditioning	NO	
Plumbing		
Full Baths	1	
Partial Baths	0	
Fireplace		
Fireplace Stacks	YES	
Basement Rec Room		
Rec Room Type		
Rec Room Square Footage	0	
Area/Square Footage (based on exterior eave to eave area)		
Building Level	**Base Area**	**Approx. Finished Area**
1.0 (first)	928	928
Garage		
Garage Type	Framed	
Garage Square Footage	496	

This application is developed and maintained by the Information System Services Department. If you have any questions or comments, please contact the Webmaster.
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Exhibit 4

WESTFIELD PUBLIC WORKS

BOARD OF PUBLIC WORKS
J. ANDREW COOK, MAYOR
JOHN B. HART, BOARD MEMBER
MARK HEIRBRANDT, BOARD MEMBER

CHIEF ADMINISTRATIVE OFFICER
BRUCE A. HAUK

DIRECTOR OF PUBLIC WORKS
KURT J. WANNINGER

September 19, 2008

Thornberry Real Estate
Attn: Mr. Dale Thornberry
16772 S.R. 38 E
Noblesville, IN 46060

RE: Thornberry Real Estate 304 Main Street W. Rezone Review

Dear Mr. Thornberry:

The Westfield Public Works Department has reviewed the proposed rezone plans for the above project and offers the following comments:

1. Please recognize that all infrastructures shall be installed in accordance with the Town of Westfield's Utility and Infrastructure Construction Standards, which can be found on our website at www.westfield.in.gov under Development/Construction.

2. 110% performance bonds for all public infrastructures will be required before any construction commences. All easements shall be recorded before approval of construction plans.

3. The estimated water and sanitary availability/connection fees will be calculated according to the Project Information Sheet. This does not include fire or irrigation fees.

4. It is the developer's responsibility to notify IDEM if there are any wetlands on the project site.

5. Please show all telephone poles, pedestal/utility boxes and trees or other obstructions that are located in the right of way. Right of way width will match the current thoroughfare plan which is 75' ½ right of way for a primary arterial 1 street and should be dedicated to the City.

These review comments, submitted plans, and TAC meeting do not constitute approval for construction by the Westfield Public Works Department.

I thank you in advance for your cooperation and efforts to move this development along successfully. If you should have any questions or concerns regarding my comments or the above information, please call me at the below listed number.

Sincerely,

Donna Luley
Plan Review Coordinator
Development/Construction
dluley@westfield.in.gov

SURVEYOR'S OFFICE

Hamilton County

Kenton C. Ward, CFM
Surveyor of Hamilton County
Phone (317) 776-8495
Fax (317) 776-9628

Suite 188
One Hamilton County Square
Noblesville, Indiana 46060-2230

September 22, 2008

Thornberry Real Estate
ATTN: Dale Thornberry
16772 S.R. 38 East
Noblesville, IN. 46060
VIA E-MAIL: dale@thornberryconsulting.com

RE: Thornberry Real Estate – 304 Main Street

Dear Mr. Thornberry:

We have reviewed the BZA variance request submitted to the Hamilton County Surveyor's Office on September 15, 2008, for this project and have the following comments:

1. The proposed project falls in the incorporated area and MS4 jurisdiction of the City of Westfield.

2. The proposed project DOES fall in a Westfield Wellhead Protection Zone.

3. The proposed project falls in the J.M Thompson Arm of the Anna Kendall Regulated Drain Watershed.

4. Hamilton County Surveyor's Office has no objections to the use variance with the condition that storm water detention and location of an acceptable storm water outlet are addressed before any new construction beings on this site. The site does not have a current adequate outlet for the proposed post-developed runoff, as the site sheet flows to the South-East to S.R. 32 Right-of-way, which has inadequate storm sewer drainage, and to the North-east across other landowners on the way to the J. M. Thompson Arm of the Anna Kendall Drain.

5. Hamilton County Surveyor's Office, by not objecting to this variance, is not either in support or against this variance request and it does not absolve the petitioner from complying with any and all requirements of the Hamilton County Stormwater Management Technical Standards Manual and/or county ordinances, if variance approval is granted.

6. Please note that further comments may be necessary at a later date.

Should you have any questions, I can be reached at 317-776-8495.

Sincerely,

Greg Hoyes

Greg Hoyes, AC, CFM
Plan Reviewer

CC: Donna Luley – Westfield Public Works
Al Salzman – City of Westfield
Kevin Todd – City of Westfield
Sandy Landrum - INDOT
Dave Lucas – HCHD

EXHIBIT 5

TOWN OF WESTFIELD, INDIANA

Petition Number: 0810-VU-06
Date of Filing: 09/16/08

Application for VARIANCE OF USE
Westfield – Washington Township
Board of Zoning Appeals (BZA)

This application must be completed and filed with the Community Services Department of the Town of Westfield, Indiana in accordance with the meeting schedule.

1. Appellant's Name: Dale Thornberry / Thornberry Real Estate
   Address: 28164 SW Sunnyfield Tr. Palm City, FL 34990
   Telephone Number: _

2. Landowner's Name: Thornberry Real Estate,
   Address: 16772 SR 38 E, Noblesville IN 46060
   Telephone Number:

3. *Representative:
   *Address:
   *Telephone Number:
   *Email Address:

   *If the applicant is not presenting a petition, please provide contact information for the party representing the applicant.

4. Common description of property (address, location, etc.)
   304 Main St W, Westfield IN 46074

5. Legal description of property (list below or attach)
   See attached

6. Complete description of the nature of the variance of use applied for:
   Office Building for software & real estate & construction company offices.

7. **ALL SITE PLANS SHALL BE LEGIBLE AND DRAWN TO SCALE.** Site plans must accompany this application and must depict at a minimum:

   a. Lot(s) shape and dimensions;
   b. Location and dimensions of existing and proposed structures;
   c. Location and dimensions of existing and proposed points of ingress and egress; and
   d. All topographic and natural features and/or other unusual characteristics associated with the property.

8. The Applicant must address the following criteria and establish at the public hearing that each of the following is true in order to obtain a favorable determination from the BZA.

   No variance of use shall be granted unless the BZA finds all of the following to be true:

   a. That the approval of such variance of use will not be injurious to the public health, safety, morals, and general welfare of the community:
   No, the approval will not be injurious

   b. That the use and value of the area adjacent to the property included in the variance of use will not be affected in a substantially adverse manner:
   The surrounding areas will not be adversley affected

   c. That the need for the variance of use arises from some condition particular to the property involved:
   The need is particular to this property

d. That the strict application of the terms of the zoning ordinance will constitute an unnecessary hardship if applied to the property for which the variance of use is sought: Yes the strict application would cause unnecessary hardship

e. That such variance does not interfere substantially with the comprehensive plan: the variance does not interfere with the comprehensive plan

The Appellant hereby certifies that the information contained in and accompanying this application is true and correct.

Applicant

SUBSCRIBED AND SWORN TO ME THIS 15 DAY OF Sept, 2008.

Notary Public

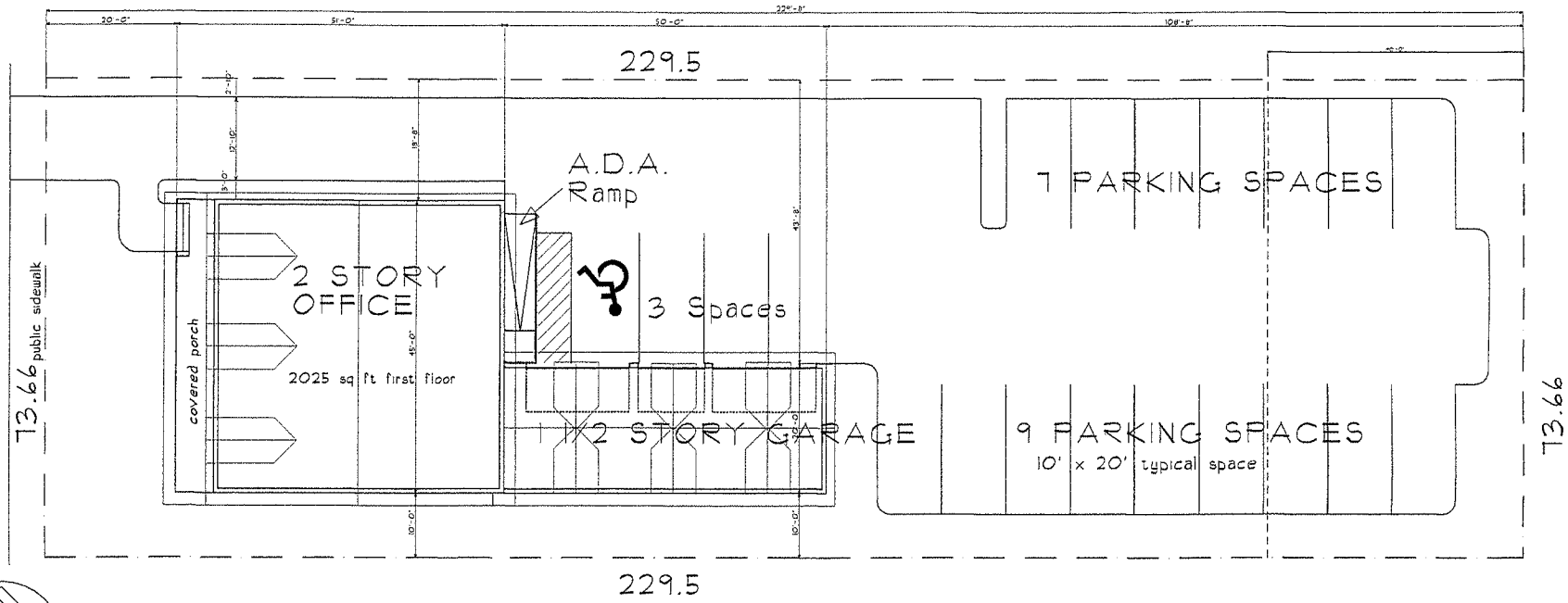
My commission expires: _____

KARA THORNBERRY
MY COMMISSION #1070211
EXPIRES: FEBRUARY 07, 2009
Bonded by Advantage Notary of Florida

Legal Description:

A part of the Southeast Quarter of Section 36, Township 19 North, Range 3 East, located in Hamilton County, Indiana, described as follows:

Begin at a point 1009.34 feet West of the southeast corner of the Southeast Quarter of Section 36, Township 19 North, Range 3 East, run thence West along the south line of this Quarter 73.66 feet to a point. Thence North parallel to the east line of this tract 229.5 feet to an iron stake; thence East parallel to south line of this quarter 73.66 feet to an iron stake, thence South 229.5 feet to the place of beginning.



SITE PLAN 1/8"=1'-0"

total parking 24 Spaces
5 covered
19 outside

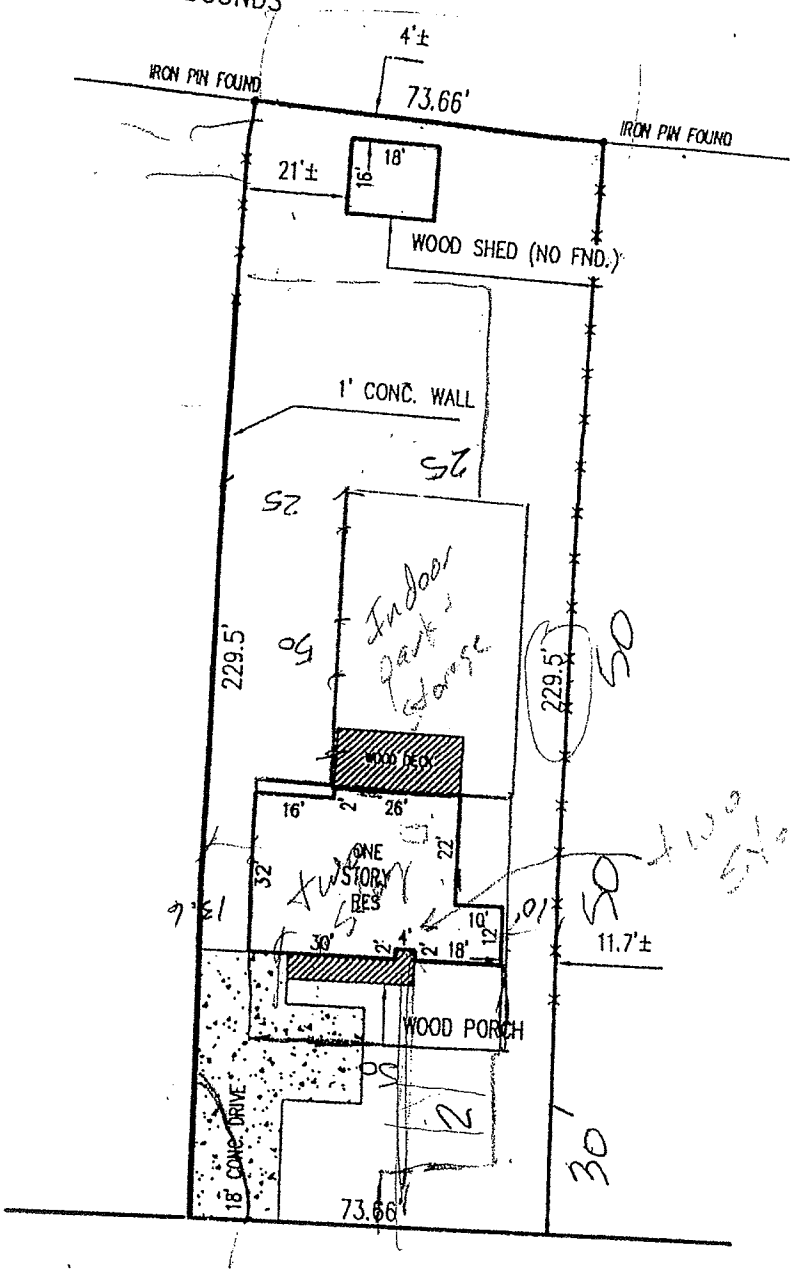
B	Braden & Braden AIA, PA Architects - Planners 411 Coconut Avenue Tel : (772) 287-8258 Fax : (772) 287-8283 Stuart, FL 34996 #AAC000032	office for Thornberry Westfield Indiana	Date Drawn : 8-12-08 Revisions : 8-19-08	Drawn By: D.R.B. Checked By:	Sheet OF
					Comm # 08-109

Location Survey

SURVEYOR LOCATION REPORT

PROPERTY ADDRESS: 304 WEST MAIN STREET
WESTFIELD, IN 46074

LAND DESCRIPTION: METES AND BOUNDS



MAIN STREET 50' 1/2

DRAWN BY: SAB
RLS NO: 12324
SCALE: 1"=40'
DATE: 04-16-2002

RLS Surveyors

4321 East 82nd Street, Suite C
Ph. 317•842•7330 FAX 317•842•7334
Indianapolis, IN 46250
Internet N7234@IEL.NET