

WESTFIELD-WASHINGTON

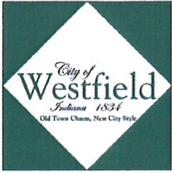
BOARD OF ZONING APPEALS

October 14, 2008

0810-VS-14

Exhibit 1

PETITION NUMBER:	0810-VS-14
SUBJECT SITE ADDRESS:	304 W. Main Street
APPELLANT:	Thornberry Real Estate
REQUESTS:	<p>The Appellant is requesting a Variance of Standard from the following Westfield-Washington Zoning Ordinance sections:</p> <ol style="list-style-type: none"> 1. WC 16.04.070, 4 (to reduce the minimum lot size in the US 31 Overlay District from 5 acres to 0.39 acre) 2. WC 16.04.070, 5c (to reduce the front yard setback in the US 31 Overlay District from 60 feet to 20 feet) 3. WC 16.04.070, 5d (to reduce the side yard setback in the US 31 Overlay District from 45 feet to 10 feet on the east and 18 feet, 8 inches on the west) 4. WC 16.04.070, 5f (to reduce the minimum aggregate of side yard in the US 31 Overlay District from 90 feet to 28 feet, 8 inches) 5. WC 16.04.070, 5g (to reduce the minimum lot width in the US 31 Overlay District from half the depth of the lot (229.5 feet) to 73.66 feet) 6. WC 16.04.070, 5h (to reduce the minimum aggregate gross floor area in the US 31 Overlay District from 15,000 square feet to 4,050 square feet) 7. WC 16.04.070, 8 (to vary the following US 31 Overlay building materials requirements for all facades): <ul style="list-style-type: none"> o To reduce number of building materials from 3 to 1; o To not require brick or stone as a building material; and, o To reduce the number of external corners from 8 to 4. 8. WC 16.04.120, 2f (to reduce the parking aisle width from 24 feet to 12 feet) 9. WC 16.06.060, B & C (to reduce the west buffer yard requirements from a 15' yard with 8 evergreen trees and 39 evergreen shrubs to a 5' yard with 0 evergreen trees and 39 evergreen shrubs) 10. WC 16.06.070, A 1 & 2 (to reduce the following interior parking lot island requirements): <ul style="list-style-type: none"> o To reduce the planting requirements from 1 tree and 4 shrubs per island to 0 trees and 0 shrubs per island; o To reduce the island width from 7 feet to 0



	feet); and, o To reduce the island curb height from 6 inches to 0 inches). 11. WC 16.06.070, B2 (to reduce the west perimeter parking lot plantings from 1 tree/30 feet and 1 shrub/3 feet of parking lot length to 0 trees and 0 shrubs).
CURRENT ZONING:	SF-3
CURRENT LAND USE:	Single-Family Residential
APPROXIMATE ACREAGE:	0.33 acre
RELATED CASES:	0810-VU-06 (Variance of Use to allow office uses in SF-3; <i>Pending</i>)
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.

If the accompanying variance of use case (0810-VU-06) is not approved, then there is no need to hear this case.

This request contains multiple items. The Board may choose to vote on each separate standard individually, in smaller groups, or collectively in one group.

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 vary multiple development standards found in the U.S. 31 Overlay District and the Landscaping Standards, which would allow the site to be developed in accordance with the submitted site plan. The U.S. 31 Overlay District does not accommodate development or redevelopment of lots that are smaller than five (5) acres in size. As a result, the redevelopment of smaller parcels within the U.S. 31 Overlay often leads to multiple variance requests.

Request items 1, 4, 5 and 6 are necessary variances to redevelop the site in any manner. Items 2, 3, 7, 8, 9, 10 and 11 are specific to the submitted site plan.

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.

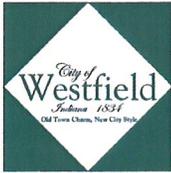
The Land Use Concept Map in Westfield-Washington Township Comprehensive Plan identifies the subject property to be within Downtown Westfield (p .23). The Comprehensive Plan identifies a need to revitalize Westfield's downtown. The Comprehensive Plan does not specifically address this area of Downtown 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.

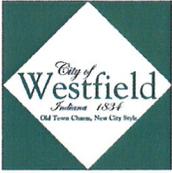
If this variance and the associated variances of standard requests (0810-VS-14) are approved, then this project will be subject to the Development Plan Review process. Any technical issues associated with the development of this property will be addressed at that time.

CRITERIA FOR VARIANCE OF STANDARDS REQUEST

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

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

Finding: It is unlikely that approving the requested variances would be injurious to the public health, safety, morals, and general welfare of the community. The requests are seeking relief from the U.S. 31 Overlay and Landscaping Standards, which primarily address site design, site layout, and aesthetic concerns. The submitted site plan meets all development standards from the underlying zoning SF-3 District. There were no public safety issues or concerns raised by the Technical Advisory Committee.



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 the adjacent property would be affected in an adverse manner. The site would develop under the current SF-3 development standards, which is consistent with much of the surrounding area.

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

Finding: Because of the size and configuration of the site, it would be undevelopable if required to comply with all of the U.S. 31 Overlay development standards. Additionally, the size and configuration of the site, in conjunction with the proposed site layout, limits the ability to install all of the required landscaping in a manner that would afford successful plant growth and stability.

ADDITIONAL COMMENTS

None.

RECOMMENDATIONS

Approve Items 1, 4, 5, and 6 of this request, with the applicable condition below, based on the findings of this report.

Continue items 2, 3, 7, 8, 9, 10 and 11 to allow the petitioner time to respond to items related to the Downtown Master Plan efforts.

APPLICABLE CONDITIONS of APPROVAL

1. That no further reduction in any of the standards associated with this request occurs.

KMT



0810-VS-14
 09-05-36-04-04-026.000
 304 West Main Street
 Exhibit 2

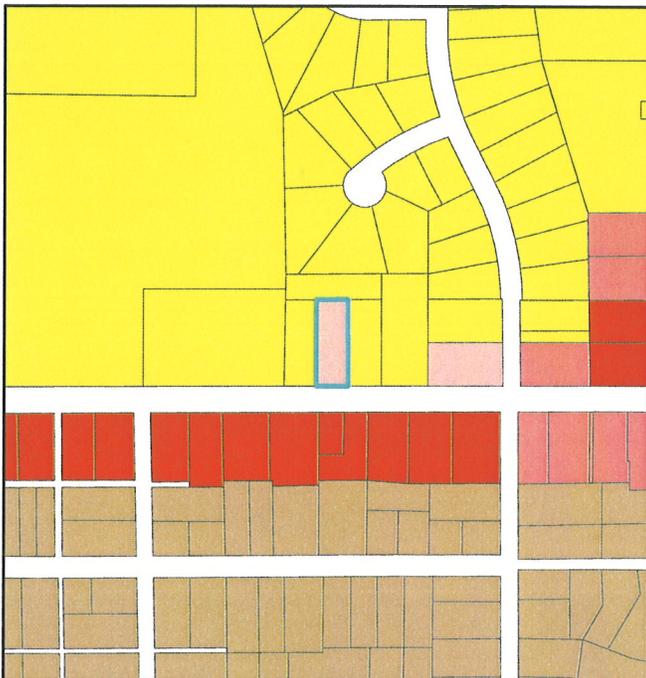


Aerial Location Map

 Site

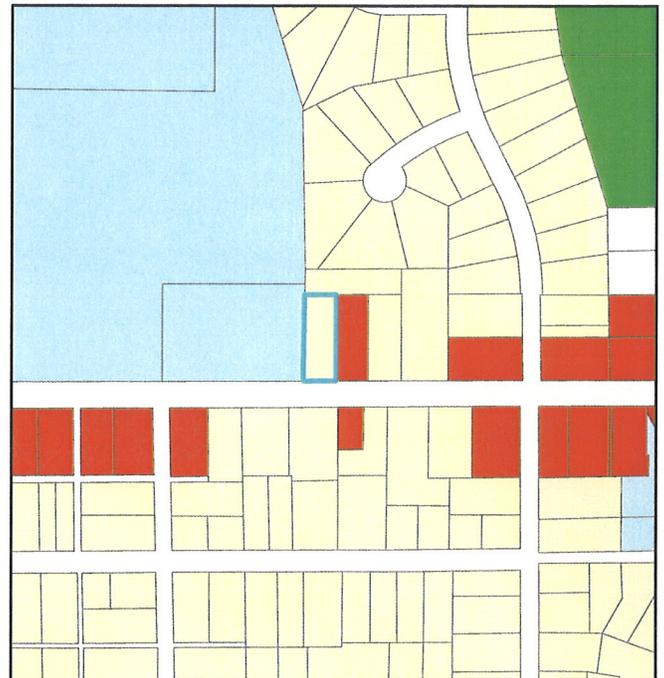


Zoning Map



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

Existing Land Use Map



- | | |
|---|---|
|  Commercial |  Residential |
|  Institutional |  Vacant |
|  Recreational | |

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

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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
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Floor Finish

1.0 (first)	Carpet, Carpet
-------------	----------------

Exterior Cover

1.0 (first)	Wood siding
-------------	-------------

Interior Finish

1.0 (first)	Drywall
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Accommodations

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
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Basement Rec Room

Rec Room Type	
Rec Room Square Footage	0

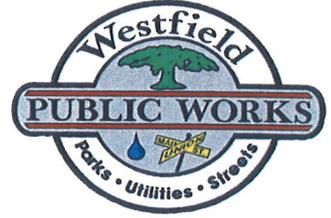
Area/Square Footage (based on exterior eave to eave area)

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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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:

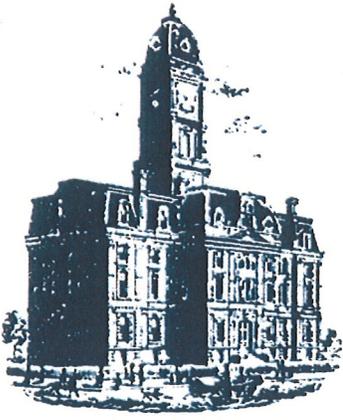
1. Please recognize that all infrastructures shall be installed in accordance with the Town of Westfield's Utility and Infrastructure Construction Standards, which can be found on our website at www.westfield.in.gov under Development/Construction.
2. 110% performance bonds for all public infrastructures 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



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, 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

Petition Number:

0810-US-14

Date of Filing:

09/16/08

**Application for VARIANCE OF DEVELOPMENT STANDARD
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
Address

Dale Thornberry / Thornberry Real Estate
28104 SW Sunnyside Tr. Palmcity FL 32909

Telephone Number
E-Mail Address

2. Landowner's Name
Address

Thornberry Real Estate
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 development standard variance applied for:

office building for software & real estate & construction
company offices

See attached

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 development standard shall be granted unless the BZA finds all of the following to be true:

- a. That the approval of such variance of development standard will not be injurious to the public health, safety, morals, and general welfare of the community:

No, it will not be injurious.

- b. That the use and value of the area adjacent to the property included in the variance of development standard will not be affected in a substantially adverse manner:

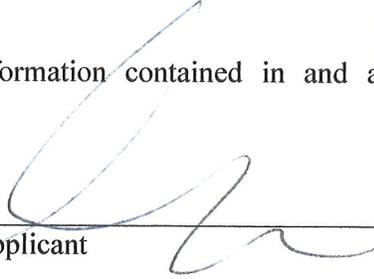
The use and value of the area will not be adversely affected.

- c. That the strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the subject property:

Yes, strict application would result in difficulties.

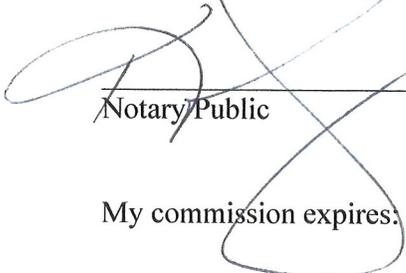
TOWN OF WESTFIELD, INDIANA

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: _____



6) Complete description of the nature of the development standard variance applied for:

1. US 31 Overlay, Minimum Lot Size - 5 Acres (WC 16.04.070, 4)
2. US 31 Overlay, Minimum Front Yard - 60 feet (WC 16.04.070, 5c)
3. US 31 Overlay, Minimum Side Yard - 45 feet (WC 16.04.070, 5d)
4. US 31 Overlay, Minimum Aggregate of Side Yard - 90 feet (WC 16.04.070, 5f)
5. US 31 Overlay, Minimum Lot Width - Half the depth of the lot (WC 16.04.070, 5g)
6. US 31 Overlay, Minimum Aggregate Gross Floor Area - 15,000 square feet (WC 16.04.070, 5h)
7. US 31 Overlay, Building Materials/8 External Corners - 3 materials, 1 must be brick or stone; 8 external corners (WC 16.04.070, 8, Bullet 3)
8. Parking, Aisle Width - 24 feet (WC 16.04.120, 2f)

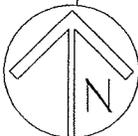
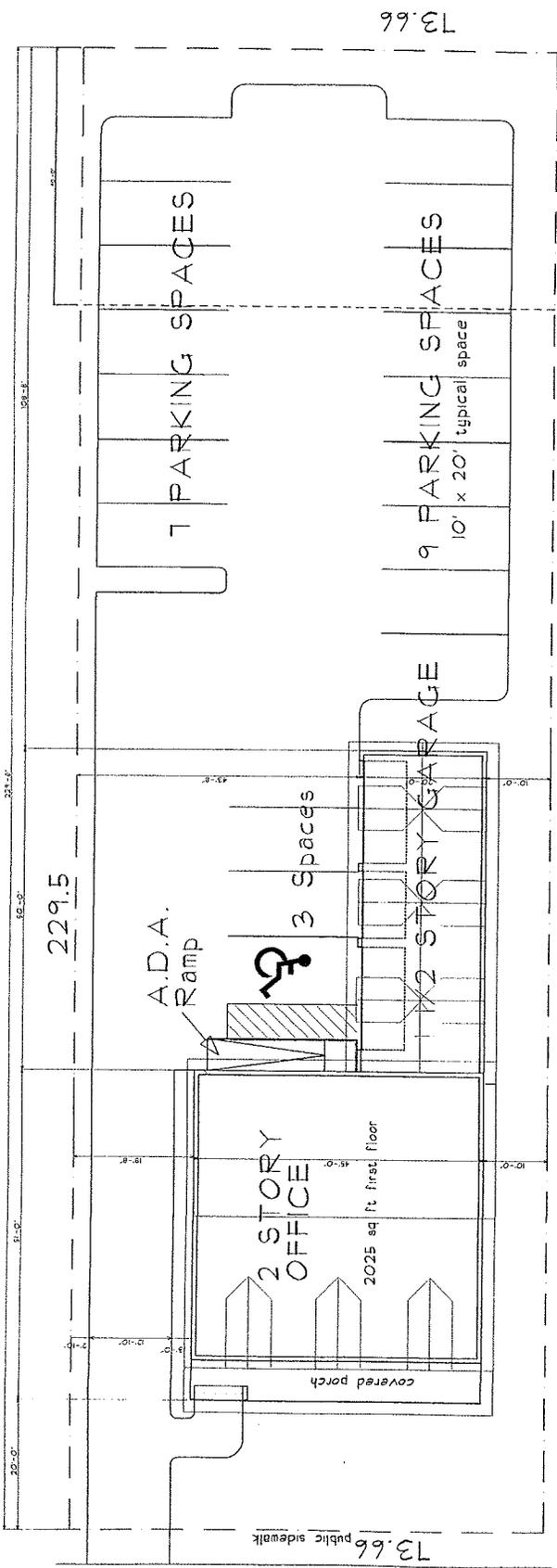
Landscaping

1. West Buffer Requirements: 15' yard; 8 evergreen trees; 39 evergreen shrubs (can NOT count towards On-Site requirements) (WC 16.06.060 B & C)
2. Interior Parking Lot Island: 5% of parking area (each island is required to be at least 7' wide with 6" curb; planted with 1 tree and 4 shrubs) (can NOT count towards On-Site requirements) (WC 16.06.070, A 1 & 2)
3. Perimeter Parking Lot Plantings (East side of rear parking lot): 5' planting strip; 3 trees; 27 shrubs (this count may change depending on the final design of the parking lot) (can count towards On-Site requirements) (WC 16.06.070, B2)

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.



S I T E P L A N

1/8" = 1'-0"

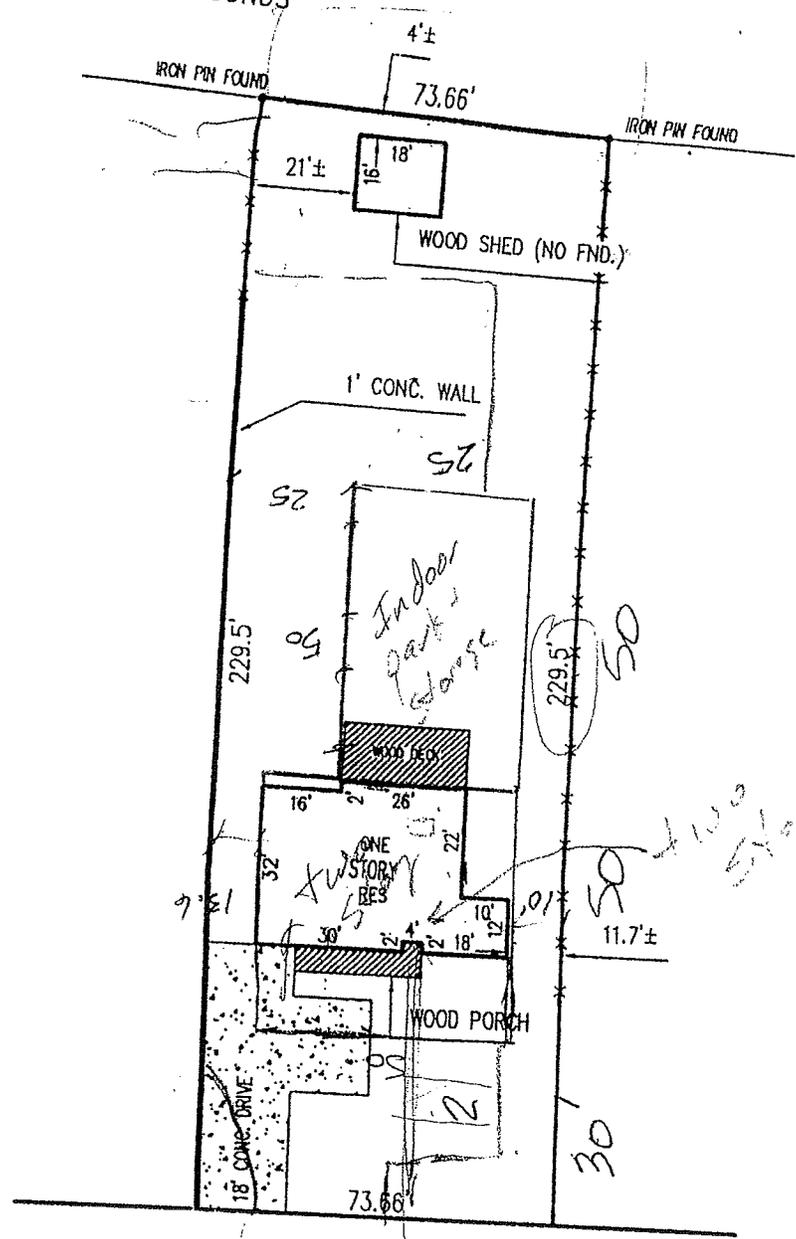
total parking 24 Spaces
5 covered
19 outside

B	Braden & Braden, AIA, PA Architects - Planners 411 Coconut Avenue Palmetto, FL 34109 Tel: (813) 281-5258 Fax: (813) 281-5258 Stuart, FL 34997 #AAC000032	office for Thornberry Westfield Indiana	Date Drawn: 8-12-08 Revisions: 8-19-08	Drawn By: D.R.B. Checked By:	Sheet: 08-109 OF	Comm #

SURVEYOR LOCATION REPORT

PROPERTY ADDRESS: 304 WEST MAIN STREET
WESTFIELD, IN 46074

LAND DESCRIPTION: METES AND BOUNDS



← MAIN STREET 50' 1/2

RLS Surveyors

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

